



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

---

सं० 16] नई दिल्ली, शुक्रवार, अगस्त 5, 2011/ 14 श्रावण, 1933(शक)  
No. 16] NEW DELHI, FRIDAY, AUGUST 5, 2011/14 SRAVANA, 1933 (SAKA)

---

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

---

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 5th August, 2011:—

### I

#### Bill No. XXXVII of 2010

*A Bill further to amend the Constitution of India.*

BE it enacted by the Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2010.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 348 of the Constitution in clause (1) for the clause (a) the following shall be substituted, namely:—

“(a) Proceedings in the Supreme Court shall be in Hindi and in every High Court shall be in the regional language as may be determined by the Chief Justice of India in Consultation with the President.”

Short title and  
commencement.

Amendment  
of article  
348.

## STATEMENT OF OBJECTS AND REASONS

The Constitution of India provides that all proceedings in the Supreme Court and in every High Court shall be in the English language. Though the subject of law is taught in Hindi and regional language in all the educational institutions all over the country and the students are also getting their degree of law in Hindi and regional languages. A large number of law graduates are compelled to plead their cases in English while practicing in the Supreme Court and the High Courts. It has been seen that some of the lawyers are not competent enough to plead their cases in English as they studied law in Hindi medium and local languages. On that ground, they are being deprived of practicing in the Supreme Court and High Courts. This results in breach of their fundamental rights of profession as enshrined in article 16 of the Constitution.

The Bill intends to do away with the compulsory use of English in the Supreme Court and High Courts by bringing in the said amendment.

Hence, this Bill.

PRABHAT JHA

## II

## Bill No. XXXIX of 2010

*A Bill to provide for special financial assistance to the State of Madhya Pradesh for the purpose of improving standard of life of the tribals, improving the sex ratio and the condition of education and health of the girls, encouraging the girl students of the families living below poverty line in the urban areas to pursue higher studies, providing concession to the families living below poverty line belonging to general category in the tuition fees at the level of higher education and in the successful completion of various ongoing schemes related with welfare and protection of the landless agricultural labourers and reducing maternal and infant mortality rate.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Special Financial Assistance to the State of Madhya Pradesh Act, 2010.

Short title and  
commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. 'Special Finance Assistance' means the assistance in addition to the assistance being provided at present to Madhya Pradesh by the Central Government.

Definition.

3. The provisions of this Act shall be, in addition to, and not in derogation of any other law to be made by Parliament or for the time being in force.

Act not in  
derogation of  
other Law.

Special  
financial  
assistance to  
the State of  
Madhya  
Pradesh.

**4. The Central Government shall provide special financial assistance to the State of Madhya Pradesh for the purpose of:—**

(i) assisting in the completion of the Project '*Shaktiman Yojana*' to lower down the rate of malnutrition in those villages of Madhya Pradesh which are dominated by the tribals and where the rate of malnutrition is higher.

(ii) completion of "*Ladali Lakshmi Yojana*" successfully which is being implemented at present with an aim to create positive thinking in the people towards the health of girl child, to bring improvement in the sex ratio and the educational standard as well as health condition of the girls and also to a solid foundation for their bright future.

(iii) successfully completion of "*Pratibha Kiran Yojana*" being implemented at present with an aim to encourage the girl students of the families living below poverty line in the urban areas and to pursue higher studies and "*Vikramaditya Yojana*" being implemented at present with an aim to provide concession to the families living below poverty line belonging to general category in the tuition fees at the level of higher education in Madhya Pradesh.

(iv) assisting in the completion of "*Mukhya Mantri Majdoor Suraksha Yojana*" (under which there is provision to provide maternity assistance, scholarship, marriage assistance, medical assistance, grant-in-aid in case of death to the landless agricultural labourers of the State) being implemented at present for welfare and protection of the landless agricultural labourers in Madhya Pradesh.

(v) assisting in the completion of "*Janani Express Yojana*" (under which the pregnant women admitted for their delivery in Government hospitals and children and other patients to be admitted in Government hospitals can avail benefit of this scheme; besides ambulance service is also being provided by private institution in Government hospitals under it) being implemented at present with an aim to reduce the maternal and infant mortality rate and to promote institutional delivery in Madhya Pradesh.

## STATEMENT OF OBJECTS AND REASONS

The State of Madhya Pradesh needs the assistance from the Central Government for the successful completion of various schemes being undertaken at present with an aim to improve the standard of life of the tribals, improve the sex ratio and level of education and health condition of the girls, to encourage the girl students of the families living below poverty line in the urban areas to pursue higher education, to provide concession in the tuition fees to the families living below poverty line belonging to general category at the level of higher education, do welfare and provide protection to the landless agricultural labourers and to lower down maternal and infant mortality rate in the State of Madhya Pradesh. This Bill is intended to provide special financial assistance to Madhya Pradesh for meeting the above objectives.

Hence, this Bill.

PRABHAT JHA

## FINANCIAL MEMORANDUM

Clause 4 of the Bill that provides for special financial assistance to the State of Madhya Pradesh by the Central Government for the purpose of completing various types of schemes being implemented at present and related with mass welfare in Madhya Pradesh. In the context of this special financial assistance, such sums of money out of the Consolidated Fund of India shall be paid every year as the Parliament may be due appropriation provide, as special financial assistance to the State of Madhya Pradesh.

The Bill, therefore, on enactment, will involve expenditure out of the Consolidated Fund of India for providing special financial assistance to the State of Madhya Pradesh. As the sums of money which will be given to the State of Madhya Pradesh as special financial assistance by Parliament after making due appropriation by law will be determined only after the welfare schemes to be implemented by the State Government with the approval of Government of India are identified. Accordingly it is not possible to give at this stage the estimates of recurring and non-recurring expenditures, which would be involved out of the Consolidated Fund of India.

## III

## Bill No. LXVII of 2010

A Bill to amend the Unorganised Workers' Social Security Act, 2008.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Short title  
and  
commencement

1. (1) This Act may be called the Unorganised Workers' Social Security (Amendment) Act, 2010.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of section 2.

2. In section 2 of the Unorganised Workers' Social Security Act, 2008, (hereinafter referred to as the Principal Act),—

(i) for clause (1), the following clause shall be substituted, namely:—

“(1) “unorganised sector” means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the said enterprise is not covered under the definition of factory in the Factories Act, 1948;”.

63 of 1948.

(ii) after clause (1), the following clause shall be inserted, namely:—

“(1a) “social security” means measures, framed by the Central or the State Government in collaboration with the employment providers for welfare of workers engaged in unorganised sector, such as, old age pension, unemployment allowances, maternity benefits, life insurance cover, accident and medical facility, provident fund, etc.;”.

3. In section 3 of the Principal Act,—

Amendment  
of section 3.

(i) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) The Central Government shall, by notification in the Official Gazette, establish the Unorganised Workers’ Social Security Fund for the welfare of unorganised sector workers.

(1A) The Central Government shall as soon as may be, by notification in the Official Gazette, establish a Welfare Fund known as the Unorganised Workers’ Social Security Fund for the purpose of this Act to which there shall be credited such moneys as may be received from donations, grants, contributions, and other aids etc.

Unorganised  
Workers’  
Social  
Security Fund.

(1B) All moneys received in the Welfare Fund shall be utilised for the welfare of the Unorganised Sectors, Workers in such manner as the Central Government may prescribe from time to time.

(1C) The Central Government shall, after due appropriation made by Parliament, by law in this behalf, credit to the fund such sums as may be necessary for the purpose of this Act.

(ii) in sub-section (2) after the words “welfare schemes” the words “for all the workers of unorganised sectors”, shall be inserted.

(iii) after sub-section (4), the following sub-section shall be inserted, namely:—

(4A) Safeguards and benefits framed under the Unorganised Workers’ Social Security Schemes shall be operated by the Central Government with the assistance of any nationalised financial institutions.”.

4. In section 5 of the Principal Act, after sub-section (8), the following sub-section shall be inserted, namely:—

Amendment of  
section 5.

“(9) The National Board shall be assisted by a Secretariat which shall comprise such officers and employees as may be prescribed.”.

5. In section 6 of the Principal Act, after sub-section (8), the following sub-section shall be inserted, namely:—

Amendment  
of section 6.

“(9) The State Board shall be assisted by a Secretariat which shall comprise such officers and employees as may be prescribed.”.

6. After Chapter V of the Principal Act, the following chapter shall be inserted, namely:—

Insertion of  
new Chapter  
VA.

‘CHAPTER VA

REDRESSAL MECHANISM

10A. (1) The Central Government shall establish a redressal mechanism model for the unorganised workers engaged in every profession, which shall include local administration, employer or employment provider, police or any other authority.

Redressal  
Mechanism  
Model.

(2) The disputes and grievances relating to employment, livelihood, rehabilitation, etc., shall be resolved in an amicable atmosphere and in a just manner.”.

## STATEMENT OF OBJECTS AND REASONS

The unorganised Workers' Social Security Act, 2008 was passed with the objective of providing appropriate and sufficient social security to the workers engaged in the unorganised sector of the country. It would be pertinent to mention that ninety-four per cent workers of the country are engaged in the unorganised sector. So, it is the moral responsibility of the Government to provide social security to the workers working on such a large scale. The Unorganised Workers' Social Security Act, 2008, is certainly a commendable step in this direction but this Act cannot be considered to be sufficient because its provisions appear more as a formality. It is not surprising that a large number of workers engaged in the unorganised sector are dissatisfied with the provisions of the Unorganised Workers' Social Security Act, 2008. The most important issue is that 'social security' has not been defined legally in this Act. Besides, the provisions of the Act are either in many ways insufficient or do not reflect the main objective of providing social security to the work force. Therefore, it is expedient to amend the Unorganised Workers' Social Security Act, 2008. It is the moral responsibility of the Government because the workers engaged in the unorganised sector make two-third contribution in national productivity. In view of the above, the Unorganised Workers' Social Security (Amendment) Bill, 2010 is being proposed.

Hence, this Bill.

PRABHAT JHA

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Unorganised Workers' Social Security Fund, and makes it obligatory for the Central Government to provide requisite funds for carrying out the purposed of the Bill. Clause 4 and clause 5 provide for the establishment of a Secretariat for assisting the National Social Security Board as well as the State Social Security Board. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India and it is difficult to calculate the expense at this juncture. A non-recurring expenditure of rupees one hundred crore may also involve from the Consolidated Fund of India.



**IV****Bill No. XCII of 2010**

*A Bill to provide for the establishment of a Media Council and certain stringent measures to regulate electronic and print media and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Media Council Act, 2010.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commence-  
ment.

## Definitions.

2. In this Act, unless the context otherwise requires:—

(a) "Chairperson" means Chairperson of the Media Council established under section 3;

(b) "Council" means the Media Council established under section 3;

(c) "electronic media" means any contents shown or telecast in a news channel and those connected with showing or telecasting these contents, including working journalists, editors and the management.

(d) "member" means a member of the Council and includes its Chairperson;

(e) "print media" means any contents published in the newspapers or magazines or agencies and those connected with publishing these contents including working journalists, editors and the management;

(f) "prescribed" means prescribed by rules made under this Act.

(g) The expressions "editor" and "newspaper" shall have the meanings respectively assigned to them in the Press and Registration of Books Act, 1867, and the expression "working journalist" shall have the meaning assigned to it in the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provision Act, 1955.

25 of 1867.

45 of 1955.

Establishment  
of the Media  
Council.

3. (1) With effect from such date as the Central Government, may by notification in the Official Gazette, appoint, there shall be established a council by the name of the Media Council.

(2) The Council shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property both movable and immovable and shall by the said name sue and be sued.

(3) The head office of the Council shall be located at New Delhi.

Composition  
of the Council.

4. (1) The Council shall consist of a Chairperson and thirty other members.

(2) The Chairperson shall be a person appointed by a Committee consisting of the Vice-President of India, the Speaker of Lok Sabha, and a person elected by the members of the Rajya Sabha in such manner as may be prescribed.

(3) Of the other members—

(a) ten shall be nominated in accordance with such procedure as may be prescribed from among the working journalists of whom five shall be editors of newspapers and the remaining five shall be working journalists other than editors:

Provided that the number of editors and working journalists other than editors and working journalists in relation to newspapers published in Indian languages shall not be less than two each respectively.

(b) four shall be nominated in accordance with such procedure as may be prescribed from among the electronic media persons of whom two shall be editors of electronic media programme and the remaining two shall be electronic media persons other than editors:

Provided that the number of electronic media editors and electronic media persons other than electronic media editors and electronic media persons in relation to electronic media operated in Indian languages shall at least be one each respectively.

(c) five shall be nominated in accordance with such procedure as may be prescribed from among persons who own or carry on the business of management of newspapers:

Provided that there shall be two representatives from each of the categories of big newspapers and medium newspapers and one from the category of small newspapers.

(d) two shall be nominated in accordance with such procedure as may be prescribed from among persons who own or carry on the business of management of electronic media;

(e) four shall be persons having special knowledge or practical experience in respect of education, science, law, literature and culture of whom respectively one shall be nominated by the University Grants Commission, one by the Bar Council of India and one by the Sahitya Academy; and

(f) five shall be members of Parliament of whom three shall be nominated by the Speaker from among the members of the Lok Sabha and two shall be nominated by the Chairman of the Rajya Sabha from among its members.

**5. (1) The salary, allowances, terms and conditions of service of the Chairperson and members of the Council shall be such as may be prescribed.**

Salary, allowances and terms and conditions of Chairperson, members and employees.

**(2) The Council shall consist of such number of officers and employees as may be necessary to discharge its functions effectively on such salary and allowances and terms of conditions as may be prescribed.**

**(3) Every member of the Council and every officer or other employee appointed by the Council shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860.**

45 of 1860.

**6. (1) Subject to the provisions of this Act, the Council shall have the power to make such observations and pass such orders and give such directions, as it may think fit in any of its decisions or report in any of the matter before it or otherwise in respect of the conduct of any individual or any authority including the authorities of both the Central and State Government as the case may be.**

Functions and power of the Council.

**(2) The Council shall frame and notify a Code of Conduct for newspapers, news agencies, working journalists, editors, electronic media persons and news channels in accordance with high professional standards and maintaining standards of journalistic ethic or public taste and fostering a due sense of both the rights and responsibilities of citizenship.**

**(3) In case any violation of Code of Conduct against newspapers, news channel, editor or a working journalist has been reported by way of the publication or non-publication of any matter in a newspaper or showing any content in a news channel, the Council shall *suo motu* take action in respect of such matters in such manner as may be prescribed.**

**(4) The report of the Council on journalistic ethics and contents shall be final and binding on the newspapers, news agency, the editor or journalist of both, the print and electronic media.**

**(5) The Council shall be empowered to adjudicate complaints of paid news and to give such directions or appropriate orders, as it may think fit.**

**7. (1) Any person, in respect of the publication, non-publication of any matter in any newspaper or telecast or non-telecast of any matter in electronic media, may file a complaint to the Council in such form and in such manner, as may be prescribed:**

Procedure for complaint and inquiry.

Provided that the Council may not take cognizance of a complaint if in the opinion of the Chairperson, there is no sufficient ground for holding an inquiry.

**(2) The Council shall make an inquiry into the matter and notice of the time, date and place of hearing shall be served on the complainant as well as on the newspaper, news**

channel or electronic media and working journalist and electronic media editor, as the case may be.

(3) At the end of the Inquiry, the Council shall make a report of its findings on the allegations contained in the complaint together with its reasons.

(4) Nothing in sub-section (1) of section 7 shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.

(5) Every inquiry held by the Council shall be deemed to be judicial proceedings within the meaning of section 193 and 228 of the Indian Penal Code, 1860.

45 of 1860.

Power to  
censure.

8. (1) Where in a report, the Council has reason to believe that a newspaper or news agency or news channel or editors has offended against the standards of journalistic ethics or public taste or that an editor or working journalist has committed any professional misconduct, the Council may, after giving the newspaper, or news agency or channel, the editor or journalist concerned final opportunity of being heard and for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the channel, the editor or the journalist or disapprove the conduct of the editor or the journalist, as the case may be.

(2) If the Council is of the opinion that it is necessary or expedient in public interest so to do, it may require any newspaper to publish therein in such manner as the Council thinks fit, any particulars relating to any inquiry under section 7 against a newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, channel, editor or journalist:

Provided that compliance with such directions shall be mandatory and binding upon newspaper, news agency and channel:

Provided further that in the event of non-compliance with the directions within the period specified, the Council may censure the newspaper, channel, journalist concerned or direct the authorities of the State, to suspend or stop release of advertisement to it till the adjudication is published or for the period specified by the Council.

(3) On the award of two censures under this section within a period of six months, the Council may if it deems fit, direct the concerned authorities to blacklist the newspaper or the channel for the purpose of release of Government funded advertisement and in the case of news agency, editor or journalist, suspension of accreditation of such editor or journalist, as the case may be, for a period not exceeding three months:

Provided that more than two such instances of non-compliance with the directions issued under this section within a period of one year shall invite the penalty of suspension of registration of the newspapers or news agencies or channels, as the case may be, for a period not exceeding fifteen days:

Provided further that the recommendations of the Council under this section shall be binding on the authorities of the centre and the States.

(4) The decision of the Council, as the case be, shall be final and shall not be questioned in a court of law.

Levy of fees.

9. (1) The Council may for the purpose of performing its functions under this Act, levy fees upon the Information Directorate of the Central and State Government, at the rate of one per cent of its budgetary allocation for advertisements released to both print and electronic media in the preceding financial year.

(2) Any fees payable to the Council under sub-section (1) of section 9 may be recovered as an arrear of land revenue.

**10. The Central Government shall after due appropriation made by Parliament by law in this behalf, pay to the Council by way of grants such sums of money as the Central Government may consider necessary for the performance of the functions of the Council under this Act.**

Grants by  
the Central  
Government

**11. (1) The Council shall have its own fund and there shall be credited all such sums as may, from time to time, be paid to it by the Central Government and all grants and advances made to it by any authority or person and all payments by the Council shall be made therefrom.**

Fund of the  
Council.

**(2) All moneys belonging to the fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Council.**

**(3) The Council may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the Fund of the Council.**

**12. The Council shall prepare once in every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year, and giving an account of the standards of newspapers, news channel and news agencies and factors affecting them and copies thereof, together with the statement of accounts audited shall be forwarded to the Central Government which shall cause the same to be laid before both Houses of Parliament.**

Annual report  
to be laid  
before the  
Houses of  
Parliament.

**13. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.**

Power to  
make rules.

### STATEMENT OF OBJECTS AND REASONS

In today's changing scenario, the media, which also includes electronic media besides the traditional print one, has become a very powerful democratic tool. While on the flip side, it has been a boon for the society, it also has darker side which has been seen in some 'State Assemblies' elections last year in the shape of what has now come to be known as "paid news". Hence, there is a need to check this menace before it goes beyond control. It would otherwise undermine the democracy, the journalistic profession and credibility of independent media. More important is to ensure that media cannot and should not be regulated by the Government. Therefore the media council shall not only have its own funds but its recommendations shall be binding both on the media as well as authorities.

At the same time, it is for the council to ensure that the media does not cross the *lakshman rekha* and maintains certain dignity and parameters is so far as its editorial or journalistic contents are concerned. In view of this, there is pressing need to ensure that the Media Council has enough teeth to keep a check both on the media and the authorities for a healthy democracy and that its word is final and binding on them.

Hence this Bill.

PRAKASH JAVADEKAR

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Media Council. Clause 5 provides for the salary and allowances and other conditions of service of the Chairperson, members and employees of the Media Council. Clause 10 provides that the Central Government shall pay to the Council by way of grants such sums of money as the Central Government may consider necessary for the performance of the functions of the Council under this Act. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India and it is difficult to calculate the expense at this juncture. A non-recurring expenditure of rupees one hundred crore may also involve from the Consolidated Fund of India.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of this Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

## V

## Bill No. LXXXIX of 2010

*A Bill to provide for stringent punishment and adequate compensation for non-nuclear industrial mishaps in the country and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) The Act may be called The Public Liability for Non-Nuclear Industrial Mishap Act, 2010.

Short title,  
extent and  
commencement

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) "appropriate Government" means in case of a State, the Government of that State and in all other cases the Central Government;

(b) "claim Commissioner" means the claims Commissioner appointed under section 3 for the purpose of adjudicating upon claims for compensations with respect of non-nuclear and Industrial mishaps;

(c) "Fund" means Non-nuclear Industrial Mishap Fund established under section 15.

(d) "Liability" means the liability of the State or the Central Government or both for fixing and awarding compensation to the victims of any mishaps causing minor or major injuries or death of the individuals.

(e) "mishap" means any incident causing injury or death of any individual due to operational fault in the non-nuclear industry;

(f) "Non-Nuclear Industries" includes industries other than the nuclear industries, which are covered under the Civil Liability for Nuclear Damage Act, 2010 and the Public Liability Insurance Act, 1991, whether Government undertakings, private or in joint venture or an autonomous undertaking; 38 of 2010.  
6 of 1991.

(g) "prescribed" means prescribed by rules made under this Act.

Compensation  
for Non-  
nuclear &  
Industrial  
Mishaps.

3. (1) Whoever suffers due to Non-nuclear Industrial mishap shall be entitled to claim compensation in accordance with the provisions of this Act.

(2) For the purpose of adjudicating upon claims for compensation for any mishap, the appropriate Government shall notify the mishap within a period of six months from the date of occurrence of such mishap and appoint one or more Claims Commissioners for such areas, as may be specified in that notification.

Qualification  
for  
appointment  
as Claims  
Commissioner.

4. A person shall not be qualified for appointment as a Claims Commissioner unless he—

(a) is, or has been, a District Judge or

(b) in the service of the appropriate Government and has held the post not below the rank of Joint Secretary or Deputy Collector of the area or any other equivalent post.

Salary,  
Allowances &  
other terms  
and  
conditions of  
service of the  
Claims  
Commissioner.

5. The salary and allowances, if payable to, and other terms and conditions of service, of Claims Commissioner shall be such as may be prescribed.

Adjudicating  
procedure and  
powers of  
Claims  
Commissioner.

6. (1) For the purpose of adjudication of claims under this Act, the Claims Commissioner shall follow such procedure as may be prescribed.

(2) For the purpose of holding inquiry, the Claims Commissioner may associate with him such persons having expertise in non-nuclear industries or such other persons and in such manner as may be prescribed.

(3) Any person associated under sub-section (2), shall be paid such remuneration, fee or allowance, as may be prescribed.

(4) The Claims Commissioner shall be deemed to be a Civil Court for the purposes of discharging his functions under the Act and shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908. 5 of 1908.  
2 of 1974.

Inviting  
applications  
for claims by  
Claims  
Commissioner.

7. After the notification of non-nuclear mishap under sub-section (2) of section 3, the Claim Commissioner, having jurisdiction over the area, shall cause wide publicity to be given, in such manner as he deems fit, for inviting applications for claiming compensation for injuries or death caused due to such mishap.



8. An application for Compensation before the Claim Commissioner of Non-nuclear and Industrial mishap shall be made by,—

- (a) a person who has sustained injury; or
- (b) the legal representatives of the deceased; or
- (c) any agent duly authorized by such persons.

Persons entitled to make application for Non-nuclear and Industrial mishaps.

9. (1) Every application for compensation before the Claims Commissioner shall be made in such form, containing such particulars and accompanied by such documents as may be prescribed.

Procedure for making applications before Claims Commissioner.

(2) Every application under sub-section (1) of section 9 shall be made within a period of six months from the date of issue of notification.

10. On receipt of an application under sub-section (1) of section 9,—

Award by Claims Commissioner.

(1) The Claims Commissioner shall, after giving notice of such application to the owner and affording an opportunity of being heard to the parties, dispose of the applications within a period of three months from the date of such receipt and make an award accordingly.

(2) The Claims Commissioner shall arrange to deliver copies of the award to the parties within a period of fifteen days from the date of pronouncing the award.

11. The maximum amount of liability with respect of Non-nuclear and Industrial mishap which causes loss of life to a person shall be rupees ten lakh and in case of permanent injury including immediate and long term health impact to a person shall vary from rupees two lakh to five lakh depending upon the nature of such injury.

Limits of Liability.

12. Whoever—

Penalties.

(a) Negligently causes loss of life or personal injury, in any mishap or

(b) contravenes any provisions of this Act and rules made under it shall be punishable with imprisonment for a term which may extend upto five years or with fine which shall not be less than rupees fifty thousand but which may extend to rupees one lakh, or with both the first offence:

Provided that if offender fails to pay the penal amount under clause (b) his term of imprisonment shall be extended by another two years:

Provided further that if second mishap causing death or permanent injury takes place in any non-nuclear Industry by an act of negligence of any person, the operations in that industry shall be stopped forthwith.

13. Where a contravention under this Act has been committed by a Private sector or Joint venture Industry, the owner, or the majority shareholding person who at the time the offence was committed, was directly in charge of, and was responsible to the conduct of business of the industry shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences by Industries.

14. Where a contravention under this Act, has been committed by any Department of the Government, the Head of that Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences by Government Department.

15. (1) The appropriate Government shall by notification in the Official Gazette establish a fund to be known as Non-nuclear Industrial Mishap Relief Fund which shall be utilized for paying in accordance with provisions of this Act relief under the award made by Claims Commissioner.

Non-nuclear Industrial Mishap Relief Fund.

(2) The contribution to the Fund shall be made by the Control and the state Government in such proportions as may be prescribed from time to time.

**(3) The appropriate Government may by notification in Official Gazette, shall specify the authority in which the relief fund shall vest, the manner in which the fund shall be administered and the form and manner in which money shall be drawn from relief fund.**

Overriding  
effects and  
savings.

**16.** The provisions of this Act shall have effect notwithstanding anything inconsistent contained herewith in any other law for time being in force on the subject and the provisions of the Act shall be in addition to and not derogation of any other law for the time in force.

Power to  
make rules.

**17.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

### STATEMENT OF OBJECTS AND REASONS

Non-nuclear industrial mishaps causing injury or danger to life in respect of person's engaged in such sectors or industries are on the rise in the country and the affected people are not adequately covered by relevant laws in respect of such industries, which result into the affected individual's or his/their family/families not getting adequate compensation or the offender getting away with mild charges being made against him or the concerned industry's, management. It is, therefore, need of the hour that law be passed in this regard for stringent punishment and adequate compensation before the situation goes beyond control.

The Public Liability Insurance Act, 1991 was supposed to reflect post-Bhopal concerns. Despite amendments providing for minimal insurance and interim relief, it proved to be a damp squib. Insurance does not reflect claims. The Act is barely used. Therefore, there is a pressing need for a law to ensure all such disasters other than nuclear ones are covered under it and victims are paid adequate and timely compensation.

Hence, this Bill.

PRAKASH JAVADEKAR

---

### FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for salary, allowances, etc. payable to Claims Commissioner. Clause 6 provides for payments to persons associated for adjudicating of claims by the Claims Commissioner. Clause 7 provides for wide publicity to be given for inviting application for claims. Clause 11 provides for a compensation of rupees ten lakh in case of death caused by non-nuclear industrial mishaps in the country and compensation to injured person which may vary from rupees two lakh to five lakh depending upon the nature of injuries. Clause 15 provides for establishment of non-nuclear Industrial Mishap Relief Fund.

The Bill, if enacted, will involve recurring as well as non-recurring expenditure from the Consolidated Fund of India though it is very difficult to estimate the expenditure at this juncture.

---

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

## VI

## Bill No. XXV of 2011

*A Bill to establish a procedure for the ratification by Parliament of treaties entered into by the Central Government and to ensure accountability and democratic consultation in respect of power of the Union to enter into a treaty and for other matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Consultation and Ratification of Treaties Act, 2011.
- (2) It shall extend to the whole of India except the State of Jammu and Kashmir.
- (3) It shall be deemed to have come into force on the 18th day of July, 2005.

Definitions.

2. In this Act unless the context otherwise requires,—

(a) “binding”, with its grammatical variations and cognate expressions, means the creation of enforceable rights and liabilities arising from a treaty that has obtained the ratification of Parliament;

(b) "enter into", with its grammatical variations and cognate expressions, means the signing of a treaty by the Central Government, on behalf of India, with the intention that such treaty be binding in respect of India;

(c) "ratification" means the approval of a treaty by resolution of both the Houses of Parliament in the manner prescribed under this Act;

(d) "State Legislature" means the Legislature of a State and also includes, for purposes of this Act, the primary legislative body of a Union Territory;

(e) "treaty" means an International Agreement in writing that is intended to have binding effect between its signatories, whether embodied in a single instrument or in two or more related instruments and whatever its particular title, designation or form, concluded between the Central Government and the Government or Governments of any other foreign country or countries, as the case may be, or any international organization or international organizations, as the case may be.

## CHAPTER II

### PROHIBITION IN RESPECT OF TREATY MAKING POWER

3. No treaty shall be entered into by the Central Government, or ratified by the Parliament, save in accordance with the provisions of this Act or any rules made thereunder.

Central Government to enter into treaties in accordance with the provisions of this Act.

## CHAPTER III

### PUBLIC TO BE CONSULTED

4. (1) The Central Government shall, in such form and in such manner as may be prescribed inform the public of the content, nature, effect and scope of any treaty that it is negotiating or intends to negotiate.

Public to be consulted on treaty before it is entered into.

(2) The Central Government shall, at least ninety days before entering into a treaty,

(a) Publish the draft provisions of such treaty that it intends to enter into in the Official Gazette;

(b) disseminate, or cause the dissemination of, the draft provisions of such treaty that it intends to enter into, along with an explanation as to its nature, scope and effect, for discussion by the Public;

(c) invite, facilitate, receive and consider views and suggestions regarding the draft provisions of such treaty that it intends to enter into, from the public.

(3) Every treaty entered into by the Central Government shall, within fifteen days of the date of it being entered into, be circulated for discussion by the public.

## CHAPTER IV

### CIRCULATION TO STATE LEGISLATURES

5. (1) The Central Government shall, at least ninety days before entering into any treaty, circulate, or cause the circulation of, such treaty that it intends to enter into to each State Legislature in such form and in such manner as may be prescribed.

Treaties to be circulated to State Legislatures.

(2) Each State Legislature to which a treaty has been circulated under sub-section (1) of this section may, if it thinks fit, make responses or objections upon such treaty in such form, manner and time as may be prescribed.

## CHAPTER V

### PARLIAMENT TO RATIFY CERTAIN TREATIES

6. (1) No treaty entered into by the Central Government shall be binding in respect to India unless it has obtained the ratification of Parliament.

No treaty binding unless ratified by Parliament.

(2) Parliament may, by resolution to that effect passed by each House, exclude from the operation of this section, any treaty or treaties or class or classes of treaties, as the case may be.

Treaties to be  
laid before  
Parliament.

7. (1) Subject to sub-section (2) of section 6, every treaty entered into by the Central Government shall be laid, within fifteen days of the date of it being entered into, before each House of Parliament in such form and in such manner as may be prescribed:

Provided that where a treaty has been entered into at a time when either House of Parliament is not in session or has been dissolved, the period of fifteen days shall be reckoned from the date on which both Houses of Parliament are reassembled, and if the Houses of Parliament are summoned to reassemble on different dates, the period aforesaid shall be reckoned from the later of those dates for the purposes of this section.

(2) Each House of Parliament may, within a period of ninety days, which may be comprised in one session or in two or more consecutive sessions, of a treaty being laid before it under sub-section (1) of this section, pass a resolution to approve, disapprove, modify, or make reservations to, the said treaty:

Provided that each House of Parliament may extend the period of ninety days for such further periods as it thinks fit to facilitate discussion by the public.

(3) Notwithstanding anything contained in sub-section (2) of this section, Parliament may, by resolution, indicate the treaties or classes of treaties that have to be ratified by resolution of both Houses of Parliament.

(4) A treaty that has been approved by resolutions of both Houses of Parliament under sub-section (2) of section 7 shall be deemed to have obtained the ratification of Parliament:

Provided that where Parliament makes a reservation or reservations to a treaty that has been laid before it, the treaty shall be deemed to be ratified subject to such reservation or reservations, as the case may be:

Provided further that where a treaty has been modified, by resolution of either House of Parliament, the treaty shall not be deemed to be ratified and may be referred to the Central Government for further negotiation.

## CHAPTER VI

### MISCELLANEOUS

Treaties to be  
published.

8. (1) Notwithstanding any resolution of Parliament under sub-section (2) of the section 6 or any other provisions of this Act, every treaty entered into by the Central Government shall be published, within seven days of such entrance into, in the Official Gazette.

(2) Every treaty that has obtained the ratification of Parliament shall be published, with seven days from the date of such ratification, in the Official Gazette.

Power to  
make rules.

9. (1) The Central Government may, by notification in the Official Gazette make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely—

- (a) the dissemination of treaties to the public under Section 4;
- (b) the circulation of treaties to the State Legislatures under Section 5;
- (c) the commentary on treaties by the State Legislature under Section 5;
- (d) the laying of treaties before Parliament under Section 7;
- (e) the effective implementation of this Act;
- (f) any other matter which is required to be, or may be, specified by rules.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a period of thirty days which may

be comprised in one session or in two consecutive sessions and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**10.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have  
overriding  
effect.

## STATEMENT OF OBJECTS AND REASONS

Parliament is empowered to make laws in respect of entering into treaties and agreements, and implementing conventions, with foreign countries under Entry 14, List I, Seventh Schedule read with Article 246 of the Constitution of India. However, in the absence of relevant legislation, the Central Government has been entering into treaties and agreements with foreign countries in exercise of its executive power that is coterminous with the legislative power of Parliament by virtue of Article 73 of the Constitution.

2. The treaty making power of the Union may sometimes be exercised in relation to matters that are within the competence of the States. The Report of the National Commission to Review the Working of the Constitution recommended: "*that for reducing tension or friction between States and the Union and for expeditious decision making on important issues involving States, the desirability of prior consultation by the Union Government with the inter-State Council may be considered before signing any treat vitally affecting the interests of the States regarding matters in the State List.*"

3. India has entered into bilateral and multilateral treaties that are capable of international enforcement irrespective of their specific incorporation into Indian law. These treaties raise issues of fundamental importance to the governance of India. It is in the interests of democracy and accountability to ensure that the people, Parliament and the Legislatures of the States be consulted in matters of treaty making and their ratification.

4. The Consultation and Ratification of Treaties Bill, 2011 aims at establishing a procedure for the ratification by Parliament of treaties entered into by the Central Government and to ensure accountability and democratic consultation in respect of the treaty making power of the Union and for other matters connected therewith or incidental thereto. The Bill, *inter alia*, provides for the following matters, namely:—

- (i) no treaty shall be entered into by the Central Government save in accordance with the provisions of this Act;
- (ii) the Central Government shall consult the public during negotiations to treaty, after entering into it and before it has been ratified by Parliament;
- (iii) no treaty entered into by the Central Government shall be binding in respect of India unless it has obtained the ratification of Parliament;
- (iv) every treaty entered into by the Central Government shall be laid before each House of Parliament, within fifteen days of its signature by the Central Government, for a period of ninety days, and each House of Parliament may, within such period, by resolution, approve or disapprove such treaty;
- (v) a treaty shall have obtained the ratification of Parliament if, within the period of ninety days from its laying before each House of Parliament, it has been approved by resolution by such Houses of Parliament, or, if, on the expiry of the period of ninety days, it has not been disapproved by resolution by either House of Parliament;
- (vi) every treaty entered into by the Central Government shall be circulated to each State Legislature and such State Legislature or State Legislatures may make comments upon such treaty;
- (vii) every treaty entered into by the Central Government shall be disseminated to the public for discussion;
- (viii) the Central Government shall have the power to make rules for the purpose of carrying out the objects of the Bill.

5. The Bill seeks to achieve the above objectives.

PRAKASH JAVADEKAR



**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to the matters of details only.

The delegation of legislative power is of normal character.

## VII

## Bill No. V of 2011

THE LEARNING OF DEVANAGARI SCRIPT (FOR NATIONAL UNITY)  
BILL, 2011

*A Bill to provide for compulsory learning of Devanagari Script in schools by every citizen of India and for matters connected therewith and incidental thereto.*

WHEREAS article 343 of the Constitution provides that official language of the Union shall be Hindi in Devanagari Script and therefore it is expedient that in national interest, every citizen should learn Devanagari Script.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Learning of Devanagari Script (For National Unity) Act, 2011.

(2) It shall come into force on such date as may the Central Government by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of the State and in other cases the Central Government;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "primary school" means any school imparting education from first to fourth standard, whether established by the appropriate Government or, local self Government and includes aided school recognised by the appropriate Government and private school.

3. The appropriate Government shall, within six months of the commencement of this Act, ensure compulsory learning of Devanagari Script by every citizen during the first four years of learning in the primary school throughout India for reading and writing words in Devanagari Script in addition to the language and script in which the primary education is imparted to him:

Central Government to make provisions for compulsory learning of Devanagari Script.

Provided that the marks secured by a student out of the prescribed marks for writing words in mother tongue or official language of the State as the case may be, and the marks obtained in Devanagari Script and *vice versa* shall be added to the total marks secured in the primary school examination but the marks obtained in the Devanagari Script shall not count for determining pass in the examination.

4. (1) The appropriate Government shall ensure that every school within its jurisdiction is fully prepared to impart learning in Devanagari Script in accordance with the provisions of this Act.

Schools to be prepared for Devanagari Script.

(2) For the purposes of sub-section (1), every school shall appoint at least one qualified teacher for imparting education of Devanagari Script at all level in the school and maintain data of the performance of each student about his learning of Devanagari Script.

5. The appropriate Government shall ensure periodic monitoring and inspection of schools imparting learning of Devanagari Script in such manner as may be prescribed.

Monitoring of schools.

6. The Central Government shall, after due appropriation made by the Parliament, in this behalf provide requisite funds for the purpose of this Act.

Central Government provide fund.

7. If any school violates the provisions of this Act, the appropriate Government shall take such action against the school as is available to it under the existing laws regulating the functioning of the schools in its jurisdiction.

Penalty.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

Under Article 343 of the Constitution Hindi in Devanagari Script has been made the official language of the Union. It is a matter of common knowledge that out of the twenty two languages mentioned in the eighth Schedule to the Constitution, the script of three languages, namely, Sanskrit, Hindi and Marathi is Devanagari Script. Number of States have been formed on the basis of language considering it as essential in democracy for the respective state Government should speak to the people in their own language. In, view of this policy, each State has adopted its own official language and consequently the primary education is imparted by and large in the language in which all children learn not only the official language of the State but also its scripts. Though Hindi has been declared as the official language of the Union, it takes considerable time to use the said language effectively at all levels and in all departments of the Union. However, learning Devanagari Script by all the citizens will go a long way in the matter of National unity as learning of Devanagari Script would enable the citizens to read and write any words or phrases in Devanagari Script. It would also help in having single sign boards and in particular on all the Kilometer stones. As a result, citizens do not feel any difficulty after crossing borders of their State and travel in other parts of the Country. Therefore, in National interest, it is considered necessary to prescribe that every citizen should learn Devanagari Script which is sure to help National unity.

Hence, this Bill.

M. RAMA JOIS

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the compulsory learning of Devanagari Script by every citizen during the first four years of learning in the primary schools. Clause 4 provides school to appoint teacher and maintain data of the performance of student in Devanagari Script. Clause 6 provides that the Central Government, shall after due appropriation, provides fund for the purpose of this Act. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India and it is very difficult to estimate the expenditure at this juncture. No non-recurring expenditure is likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of this Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

## VIII

## Bill No. XVI of 2011

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2011.

Short title  
and  
commence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Tenth Schedule of the Constitution,—

Amendment  
of the Tenth  
Schedule.

(i) for sub-paragraph (a) of paragraph 1, the following sub-paragraph shall be substituted, namely:—

"(a) 'House' means either House of Parliament or the Legislative Assembly or as the case may be, either House of the Legislature of a State and includes Regional and District Council constituted under the Sixth Schedule of the Constitution;"

(ii) in paragraph 5, after the words "the Deputy Speaker of the Legislative Assembly of a State", the words "the Chairman or Deputy Chairman of the Council formed under the Sixth Schedule of the Constitution" shall be inserted.

(iii) after sub-paragraph (2) of paragraph 6, the following sub-paragraph shall be inserted, namely: —

"(3) The proceedings of the Council constituted under the Sixth Schedule shall not be called in question in any court on the ground of any alleged irregularity of procedure."

(iv) after sub-paragraph (1) of paragraph 8, the following proviso shall be inserted, namely:—

"Provided that the rules for the Council constituted under the Sixth Schedule shall be framed with the approval of the Governor of the concerned State".

## STATEMENT OF OBJECTS AND REASONS

There are several autonomous regions in India to which Central Government has given varying degrees of autonomy within the state legislature. The establishment and functions of these autonomous councils are based on the Sixth Schedule to the Constitution of India.

The Sixth Schedule contains provisions as to the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram. This law gives enormous freedom to the autonomous regions and districts in terms of legislative and executive power. The law provides that each autonomous region shall have its own Autonomous Regional Council and every autonomous district shall have its own *Autonomous District Council* in which the administration of an autonomous district and region shall be vested respectively. The District Councils are Autonomous bodies with the objectives of framing laws to safeguard the rights and interest of the indigenous Tribal people within their jurisdiction.

The Elections to these Autonomous District Council are held at every five years interval and the elections to each and every constituency of the District Councils are intensely contested by the political parties of respective States. The national parties also take a keen interest in the Autonomous District Council elections and often do have a prominent presence in these autonomous council bodies. The results of the District Council elections are often clear indicators to the political atmosphere of the State and are considered to be a preview to the Assembly and Parliamentary elections.

For many years and even in recent times, many of the Autonomous District Councils have witnessed unfortunate experiences of horse-trading, defections and members' switching of loyalties from one political party to another political party because the anti-defection law under the Tenth Schedule of the Constitution is not applicable to the Members of the District Council(s). As a result, the aspirations of the local indigenous people and mandate of the public are clearly ignored and the selfish interests of the elected members take precedence.

In the absence of the Anti-defection law in the District Councils, the elected members have the liberty to leave the political party under whose principles and symbol he or she was elected; then chose to join any other political party which is presently in power and return to his or her parent party at whim, or join some other party which is likely to come to power.

These actions of the elected members create instability in the District Councils and the very purpose of safeguarding the rights, traditions, practices, culture and laws of each region for which the powers of the Autonomous District Councils were vested upon, are now defeated. Therefore, it is felt that the Anti-defection law under the Tenth Schedule of our Constitution should also be extended to the Autonomous District Councils.

Hence, this Bill.

THOMAS SANGMA

**IX****Bill No. XX of 2011***A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2011.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of article  
324.

2. In article 324 of the Constitution, after clause (5), the following clause shall be inserted, namely:—

“(5A) Notwithstanding anything contained in this Constitution, no person who has held the office of the Chief Election Commissioner or an Election Commissioner, as the case may be, shall be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office”.



## STATEMENT OF OBJECTS AND REASONS

Article 324 of the Constitution provides for an independent body in the form of Election Commission for conducting free, fair and impartial elections in the country. Recently, it has been observed that members of Election Commission after they ceased to hold office were appointed on important posts under the Government. Such a step erodes the respect and integrity of the office of the Election Commission in the public eye. In order to ensure neutrality and dignity of the office of the Election Commission in its functions and to put a check on this trend of appointment of members of the Election Commission to any political posts, it is necessary to amend the Constitution of India.

The Bill seeks to amend the Constitution with a view to disqualifying a person who has served as Chief Election Commissioner or Election Commissioner in the Election Commission from holding any other office under the control of the Central Government or the State Government.

Hence, this Bill.

MOHAN SINGH

## X

## Bill No. XXI of 2011

*A Bill to provide for the protective umbrella through maintenance, financial and other requisite support, withdrawal from begging, chanting of bhajan as profession and flesh trade, get rid of exploitation and for the welfare measures to be introduced by the State for the distressed, neglected, indigent, poverty or infirmity stricken widows and divorced women irrespective of their caste, creed or religion and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Distressed and Neglected Widows and Divorced Women (Maintenance, Support and Welfare) Act, 2011.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State the Government of that State and in other cases the Central Government;

(b) “Authority” means the National Welfare Authority for the Distressed Widows and Divorced Women established under section 3;

(c) "distressed" in relation to a widow or divorced women means who is stricken with poverty, without any means of livelihood and house to live with or without her minor dependent children or who is infirm due to old age, physical deformity, disease, mental imbalance and who is not looked after by any of her relatives;

(d) "neglected" in relation to a,

(i) widow means who has been abandoned under any prevailing custom or otherwise by her family or relatives and is not given the due care and attention by her near and dear ones and left to fend for herself;

(ii) divorced women means who has been disowned by her in-laws as well as parental relatives and left to fend for herself;

(e) "prescribed" means prescribed by rules made under this Act.

(f) "widow" means an adult female human being legally married and whose husband has died.

3. (1) The Central Government shall, as soon as may be but within six months of the commencement of this Act, by notification in the Official Gazette, establish an Authority to be call the "National Welfare Authority for the Distressed Widows and Divorced Women" for carrying out the purposes of this Act.

Establishment  
of the  
National  
Welfare  
Authority for  
the Distressed  
Widows and  
Divorced  
Women.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, to contract and by the said name sue and be sued.

(3) The headquarter of the Authority shall be at Lucknow in the State of Uttar Pradesh.

(4) The Authority shall establish its branches in all the States and Union Territories at conspicuous places in the country.

(5) The Authority shall consist of,—

(a) the Minister in charge of the Union Ministry of Women and Child Development as *ex-officio* Chairperson;

(b) a Deputy Chairperson with such qualifications and experience as may be prescribed, to be appointed by the Central Government;

(c) five members of Parliament preferably women members, of whom three shall be from Lok Sabha and two from the Rajya Sabha to be nominated by the respective Presiding Officers of both the Houses;

(d) three members representing the Union Ministries of Social Justice and Empowerment, Finance and Human Resource Development respectively;

(e) not more than four members to be nominated by the Governments of the States, by rotation in alphabetical order to represent the Governments of the States;

(f) three members to be appointed by the Central Government from amongst the recognised Non-Governmental Organisations working for the welfare of distressed and neglected widows and divorced women covered under this Act.

(6) The term of office, remuneration and other facilities of the Deputy Chairperson and members shall be such as may be prescribed.

(7) The Authority shall follow such procedure for holding its meetings and the quorum for such meeting shall be such as may be prescribed.

(8) The Authority shall have a Secretariat with such number of officers and members of the staff with such terms and conditions of service and salary, allowances and other facilities as may be prescribed from time to time.

Functions of  
the Authority.

4. (1) The Authority shall promote and implement such protective and welfare measures as it thinks fit, expedient or appropriate for the distressed and neglected widows and divorced women irrespective of their caste, creed or religion who are in need or make request for such protective and welfare measures to the Authority and who are covered under this Act.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Authority shall,—

(a) invite applications by giving wide publicity through the electronic and print media and hoardings and posters, from the distressed and neglected widows and divorced women who require the protective umbrella of the Authority;

Provided that the general public may also provide the information about the distressed and neglected widows and divorced women covered under this Act to the Authority and the Authority shall take cognizance of such information;

(b) on the basis of applications so received or information given by the general public, the Authority shall register the names and particulars and maintain a district-wise register of the distressed and neglected widows and divorced women covered under this Act with such particulars and details as may be prescribed;

(c) work out plans and formulate schemes for the protection, welfare and rehabilitation of the distressed and neglected widows and divorced women covered under this Act;

(d) formulate, rehabilitation measures and other protective measures in particular for the *bhajan* chanting widows of Mathura, Vrindavan and other religious places;

(e) establish adequate number of hostel accommodations for board, lodging and make provision of necessary facilities therein for the needy widows and divorced women covered under this Act;

(f) take such other measures not inconsistent with the provisions of this Act, as the Authority may deem necessary for the protection and welfare of the distressed and neglected widows and divorced women covered under this Act.

Financial  
assistance  
and other  
facilities.

5. (1) The appropriate Government shall, on the recommendation of the Authority or of its own, provide the distressed neglected widows and divorced women registered under this Act, the following facilities, namely:—

(a) monthly subsistence allowance of rupees three thousand in case she is having any dependent child or rupees two thousand if she is alone;

(b) hostel accommodation free of cost wherever necessary;

(c) free education if, she is illiterate;

(d) free education including higher education, technical and medical education to their children;

(e) free medicare;

(f) gainful employment;

(g) free vocational training wherever necessary;

(h) such other facilities, as may be necessary for her rehabilitation, development and maintaining a respectable life in the society:

Provided that if any distressed and neglected widow or the divorced women covered under this Act either gets gainful employment or remarries, all the facilities provided to her and her children in accordance with the provisions of this Act shall be withdrawn from the date she gets the gainful employment or remarriage, as the case may be.

(2) It shall be the duty of the Authority as well as of the appropriate Government to extend or get extended the vocational training and in particular for stitching, weaving embroidery, handicrafts paintings, doll making, producing *papad* and *namkeens*, sweets, pickles and other household items to the widows and divorced women covered under this Act as per their calibre and extend necessary financial and other assistance to them for their self employment after their training.

6. The Authority shall submit an Annual Report in such form and in such manner, as may be prescribed of its activities and the protective and welfare measures undertaken for the purposes of this Act to the President of India who shall cause the Report to be laid before both the Houses of Parliament alongwith the action taken by the Central Government thereon as soon as it is recieved.

Annual  
Report.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to the Authority and the Governments of the States and Union Territories administrations, from time to time, for carrying out the purposes of this Act.

Central  
Government  
to provide  
requisite  
funds.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

Power of  
remove  
difficulty.

9. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have  
overriding  
effect.

10. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt within this Act.

Act to  
supplement  
other laws.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to  
make rules.

### STATEMENT OF OBJECTS AND REASONS

Our nation is very vast and second most populous nation of the globe with different religious, cultures, customs and languages. Nearly half of our population is composed of women and therefore, it is natural that there is a very large number of widows in our country. Quite a large number of such widows and divorced women are from lower and middle income groups or classes of our society. Those who are illiterate and confined to their households alone become distressed and forced by the circumstances to live uncared in the society. Many of the widows are neglected by their families and even thrown out of the households by their in-laws and they are not welcomed in their parental homes too for various reasons. In some cases, due to custom or because of personal law, the women are divorced very easily and thrown out of the households. Since most much widows and divorced women have no means to support themselves and their dependent children, they work as house maids for survival but even this is not possible for the infirm, old, physically handicapped or mentally ill and they have to subsist on begging. Many who are young are forced into flesh trade to avoid starvation which in turn makes their lives more disgraceful. Ours is a democratic country and a welfare state and hence, it is the primary duty of the State to provide protective umbrella to the distressed and neglected widows and divorced women by removing the exploitation of the such women and provide financial assistance, shelter, medicare, education and other necessary facilities to such women so that they too lead a respectable life in the society with their dependent children. To ensure this protective umbrella, an authority should be established so that all such unfortunate and hapless, widows and divorced women are protected from all kinds of exploitation in the society.

Hence, this Bill.

DR. AKHILESH DAS GUPTA

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the National Welfare Authority for the Distressed Widows and Divorced Women. Clause 5 provides for financial assistance and other facilities for the widows and divorced women. Clause 7 make it obligatory for the Central Government to provide requisite funds to the Authority and Governments of the States and Union Territories for carrying out the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. Though it is not possible to quantify the amount at this juncture it is estimated that a sum of rupees thirty thousand crore may involve as recurring expenditure per annum.

Non recurring expenditure to the tune of rupees twenty thousand crore may also involve from the Consolidated Fund of India.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of this Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

## XI

## Bill No. XXII of 2011

*A Bill to provide for the prevention of trafficking of girl child for commercial purposes by forcing her into flesh trade through various means and making her available for hiring or for taking possession by her client for promiscuous sexual acts in the garb of adventurous tourism or otherwise and for providing deterrent punishment including capital punishment for such commercialization and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Trafficking of Girl Child for Commercial Purposes Act, 2011.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "commercial trafficking of girl child" includes pushing or forcing the girl child into prostitution in order to earn money therefrom or using the girl child for any unlawful or immoral purpose or procuring or supplying the girl child for such purpose by charging or earning money or hiring or obtaining possession of a girl child for promiscuous sexual purposes by any person including foreign tourists;

(c) "Girl child" means a female human being who is below the age of eighteen years;

(d) "prescribed" means prescribed by rules made under this Act;

(e) words and expressions used and not defined in this Act but defined in the Indian Penal Code, 1860 or the Immoral Traffic (Prevention) Act, 1956 shall have the meanings respectively assigned to them in those Acts. 45 of 1860. 104 of 1956.

Prohibition of commercial trafficking of girl child.

3. (1) Notwithstanding anything contained in any other law for the time being in force commercial trafficking of girl child in any manner or purposes whatsoever, is hereby prohibited.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Penalties.

4. Notwithstanding anything contained in any other law for the time being in force whoever,—

(a) abets or induces, by any means including emotional blackmail, a girl child to have sexual intercourse or unnatural sex with any person including foreign tourist in return for money notwithstanding the family relation of such girl child with the accused or under any prevailing custom shall be punished with rigorous imprisonment for life and also with fine which may extend to rupees two lakh;

(b) forces or pushes, by using any coercive or cruel means, any girl child into prostitution or for unnatural sexual acts for earning money or otherwise shall be punished with death;

(c) acts as a agent in commercial trafficking of girl child shall be punished with imprisonment which shall not be less than seven years but may extend to life imprisonment and also with fine which may extend to rupees five lakh;

(d) lures, procures or kidnaps any girl child for commercial trafficking of such girl child shall be punished with rigorous imprisonment for a term which shall not be less than ten years but may extend to life imprisonment and also with a fine which may extend to rupees five lakh;

(e) owns or runs a brothel or uses any house, premises or hotel to keep a girl child as prostitute or sex worker, such owner or manager by whatever name known shall be punished with life imprisonment and also with fine which may extend to rupees five lakh;

(f) hires, procures or obtains possession of a girl child for promiscuous sexual intercourse or indulge in unnatural sexual acts with her shall be punishable, notwithstanding the foreign citizenship of the accused, with life imprisonment and also with fine which may extend to rupees five lakh;

(g) dedicates a girl child as *Devdasi* or *Bhavin* or by whatever name called, who ultimately ends up in prostitution, notwithstanding that accused is a natural guardian of the girl child or related to her in any manner shall be punished with imprisonment which shall not be less than five years but may extend to ten years and also with a fine which may be extended to rupees two lakh.

Rescue, Rehabilitation and Welfare measures.

5. (1) The Central Government shall, as soon as may be, but within six months of commencement of this Act, formulate a national policy for the rescue, rehabilitation and welfare measures for the girl child covered under this Act for being uniformly implemented throughout the country.



(2) Without prejudice to the generality of the provisions of sub-section (1) the measures referred to therein may provide for,—

(a) rescue of the girl child forced into commercial trafficking through the local police by making it mandatory for the police to raid the brothels and such other places within its territorial jurisdiction where the girl child is kept or has reasonable grounds for believing that girl child is kept therein;

(b) taking custody of the rescued girl child and as far as practicable reunite her with her family and in case she is homeless or without natural guardians provide her board, lodging and other facilities in children home established by the appropriate Government for the purpose;

(c) welfare measures like free medical care, education including vocational technical and medical education and training wherever required;

(d) provision of employment in public employment through reservation and other means;

(e) marrying the girl child when she becomes major and costs for which to be borne by the appropriate Government;

(f) such other measures as may be deemed necessary for the welfare and rehabilitation of the girl child covered under this Act.

2 of 1974.

6. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the offences under this Act shall be cognizable and non-bailable.

Offences to be cognizable and non-bailable.

7. (1) The Offences under this Act shall be tried by the Fast Track Courts to ensure expeditious trial of such offences.

Offences to be tried by Fast Track Courts.

(2) The trial shall be held in camera on daily basis till the case is decided and judgement delivered.

(3) The appropriate Government shall establish such number of Fast Track Courts within its territorial jurisdiction as it may deem necessary for carrying out the purposes of this Act.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for the establishment and running of Fast Track Courts, Children Homes and for other purposes of this Act.

Central Government to provide funds.

9. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the subject matter of this Act.

Act to have overriding effect.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

In our country there was a time when girl child used to be worshipped as deity and this ritual still persists in some parts particularly during *Navratras*. But the fact remain that the girl child is most unwanted in our country to-day. Most families and married couples do not want a daughter in the family and indulge in rampant sex determination tests and female foeticides in the country resulting in huge gap in the sex ratio in most parts of the country which is a major cause of concern. However, in case a girl child is born, she is neglected and treated shabbily. The girl child of poor families in a new phenomena are being pushed into flesh trade for commercial gains and their trafficking is going on a very large scale in the name of adventure tourism particularly in places of tourism importance in the country. Since, the girl child prostitute fetch more money than the women prostitutes from the prospective clients more and more adolescent girls are being forced into this centuries old profession by the professional pimps, anti-social elements, organized criminal gangs, underworld dons, brothel keepers, hoteliers, tour operators and in many cases even by their natural guardians and near and dear ones. There are some tribes who traditionally subsist on prostitution and they push their girls in this profession at their tender age. In other cases, the girls are generally lured on the promise of a decent and luxurious life and then forced into trafficking. Thousands of minor and adolescent girls go missing from various parts of the country every year and most of them remain untraced. In fact these unfortunate girls are kidnapped for prostitution for commercial gains. It has also been noticed that pimps become active when the areas, mostly in villages and remote areas, are affected by natural calamities to lure the poverty stricken girl child into their net for using them for commercial trafficking. Since the earning in this trade is very high, the girls are even imported from our neighbouring countries like Nepal, Bangladesh, Bhutan, etc. for commercial trafficking by the gangs having international connections. This commercialization is gaining momentum because adventure tourism is also becoming popular throughout the globe and tourists do indulge in sex tourism for which they spend large amount of money and the locals are always ready to provide them with minor girls. Of course, we can not and should not blame all the tourists but it is happenings in many parts of the country. Similarly, in some parts of our country, young girls are dedicated to temples as *Devdasi* or *Bhavin* and then forced into flesh trade. Now the lives of these innocent girls have been endangered due to spread of deadly AIDS and other sexually transmitted diseases. In a welfare State like ours, it has become necessary to stop this trafficking of girl child for commercial purposes by the State by providing deterrent punishment to the offenders including capital punishment so as to save the innocent girl child from the clutches of cunning traffickers and also from AIDS and other sexually transmitted diseases. The State has also to undertake their proper rehabilitation and welfare.

Hence, this Bill.

DR. AKHILESH DAS GUPTA

#### FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for rehabilitation and other welfare measures for the girl child who is rescued from prostitution. Clause 7 provides of the establishment of Fast Track Courts for trying the offences. Clause 8 makes it obligatory for the Central Government to provide funds for the establishment and running of Fast Track Courts, Children Homes, etc. The Bill, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees ten thousand Crore may involve as recurring expenditure per annum.

Non-recurring expenditure to the tune of rupees fifty thousand Crore may also involve from the Consolidated Fund of India.

---

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

**XII****Bill No. XIX of 2011**

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title,  
and com-  
mencement

1. (1) This Act may be called the Constitution (Amendment) Act, 2011.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of  
new article  
80A.

2. After article 80 of the Constitution, the following article shall be inserted, namely:—

Reservation  
of seats for  
the scheduled  
Castes and  
Scheduled  
Tribes in the  
Council of  
States.

"80A. Notwithstanding anything in this Constitution, seats shall be reserved in the Council of States for the Scheduled Castes and the Scheduled Tribes in such proportion and in such manner as parliament may by law determine".

Insertion of  
new article  
171A.

3. After article 171 of the Constitution, the following article shall be inserted, namely:—

Reservation  
of seats for  
the Scheduled  
Castes and  
Scheduled  
Tribes in the  
Legislative  
Council of  
States.

"171A. Notwithstanding anything in this Constitution, seats shall be reserved in the Legislative Council of States for the Scheduled Castes and the Scheduled Tribes in such proportion and in such manner as Parliament may by law determine".

## STATEMENT OF OBJECTS AND REASONS

Our nation though is the best example of unity in diversity in the world but majority of its vast population belongs to the oppressed and exploited lot for centuries altogether in the name of caste and creed and their sufferings are not yet over. Due to tireless efforts of Babasaheb Dr. Ambedkar the founding fathers of our Constitution provided for reservation for the Scheduled Castes and Scheduled Tribes in the Constitution for their upliftment, progress and make them equal in the society. Hence, reservation has been made in the public employment, educational institutions, Lok Sabha, Legislative Assemblies of the States, local self Governments including Municipalities, Zila Parishads, Panchayats and other Governmental bodies and institutions, etc. for the Scheduled Castes and Scheduled Tribes. But, it is unfortunate that the reservation has not been extended to Rajya Sabha and Legislative Councils in the States wherever they are in existence. This is against the principle of social justice. Hence, it is necessary that seats should also be reserved for the Scheduled Castes and Scheduled Tribes in the Rajya Sabha as well as Legislative Councils in the State Legislatures.

Hence, this Bill.

DR. AKHILESH DAS GUPTA

## XIII

## Bill No. XII of 2011

*A Bill to provide for the prevention of farmers from exploitation by moneylenders and other unscrupulous elements, removal of indebtedness, extending easy and hassle free loans, compensation to farmers affected by natural calamities by providing them adequate relief and for welfare measures such as old age pension, remunerative prices for their produce to be undertaken by the State and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Farmers (Removal of Indebtedness and Welfare) Act, 2011.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State the Government of that State and in other cases the Central Government;

(b) “farmer” means a person who owns land or cultivates land for agricultural or horticultural purpose and includes the spouse of such a farmer;

(c) "Fund" means the Farmers' Welfare Fund established under section 5;

(d) "natural calamity" includes drought, floods, cyclones, tsunami, earthquakes, hailstorms, extreme cold conditions, and such other conditions as may be notified by the appropriate Government from time to time;

(e) "old age" means where the farmer has attained the age of sixty years or more;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "scheme" means the Farmers Credit Scheme framed under section 8.

**3. (1) The appropriate Government shall take such appropriate measures as it may deem necessary and expedient for the removal of indebtedness amongst the farmers and in particular shall endeavour to save them from the local moneylenders who exploit the farmers.**

Removal of  
Indebtedness  
amongst the  
farmers.

**(2) For the purposes of sub-section (1) the appropriate Government shall, endeavour to give remunerative prices and provide compulsory insurance for the produce of the farmers.**

**4. (1) Notwithstanding anything contained in any other law for the time being in force, it shall be mandatory for all the public, private and co-operative sector Banks and financial Institutions to provide loans on easy terms with nominal or without interest to the farmers affected by natural calamity to restart the agricultural operations and allied activities and to withstand the severity of the calamity and its aftermath.**

Special  
provisions  
with regard  
to loans.

**(2) The Banks and Financial Institutions referred to in sub-section (1) shall also not recover the earlier loan given to the farmers by them who have been affected by natural calamity for at least one year after the calamity and the farmers shall not be denied fresh loans on this ground.**

**5. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette establish the Farmers' Welfare Fund for the purposes of this Act.**

Establishment  
of Farmers  
Welfare Fund.

**(2) The initial corpus of the Fund established under sub-section (1) shall be five thousand crore rupees of which four thousand crore rupees shall be provided by the Central Government, after due appropriation made by Parliament in this behalf and one thousand crore rupees shall be provided by the State Governments in proportion to their farmers population relevant for the purposes of this Act.**

**(3) After the initial constitution of the Fund, moneys shall be provided to the Fund by the Central and State Governments in such proportions and in such manner as may be prescribed from time to time.**

**(4) The Fund shall also consist of moneys received from general public, body corporates, financial institutions, domestic and foreign, as donations, gifts, etc.**

**(5) The fund shall be utilized for the welfare of farmers in such manner as may be prescribed.**

**6. (1) Notwithstanding anything contained in any other law for the time being in force, every farmer who has been affected by natural calamity by losing his crop, livestock, movable or immovable property shall be entitled to and shall be paid adequate compensation by the appropriate Government in accordance with the provisions of this Act.**

Compensa-  
tion to  
farmers  
affected by  
natural  
calamity.

**(2) The amount of compensation, payable to a farmer affected by natural calamity shall be such as may be specified by the Central Government from time to time, by notification in the Official Gazette and while specifying the compensation, the total loss suffered by a farmer due to the natural calamity shall be taken into account.**

**(3) Every claimant for payment of compensation under this Act shall apply to the officer so appointed by the appropriate Government for the purpose in prescribed form giving such relevant information as may be prescribed:**

**Provided that a Village Panchayat may apply for compensation for all the affected**

farmers of the village and it shall be deemed that each farmer has applied for the compensation under this Act.

(4) Every claim for compensation under this Act shall be finalized and the payment made within thirty days of filing of the claim.

(5) The appropriate Government shall provide quality seeds, manure, fertilizers, etc. to every farmer who lost his crop due to natural calamity for restarting the agricultural operations.

Old age  
pension to  
farmers.

7. (1) The appropriate Government shall, on an application made in the prescribed form, pay old age pension to every old farmer which shall not be less than one thousand rupees per month from the date of commencement of this Act.

Provided that the old age pension shall be subject to revision on the basis of prevailing price index.

(2) The old age pension payable under sub-section (1) shall be paid to the farmers by the appropriate Government in such manner as may be prescribed.

(3) Any farmer who is in receipt of any pension from the appropriate Government other than the one under this Act or is having adequate source of income shall forfeit his right to claim old age pension under this Act.

Farmers  
Credit  
Scheme.

8. (1) The Central Government shall in consultation with the Government of the States, frame a scheme to be known as the "Farmers' Credit Scheme" to be executed by Banks and Financial Institutions.

(2) The Scheme shall provide for,—

(a) the terms and conditions for extending credit to farmers;

(b) the extent to which the credit can be given and settling of previous loans taken, if any;

(c) the nominal interest that may be charged on farmers credit;

(d) the concessions which are to be given in respect of the credit in case of natural calamity;

(e) such other things which the Central Government may deem necessary for the purposes of this Act.

(3) The Central Government shall issue such guidelines to the Banks and Financial Institutions as it may deem necessary for carrying out the purposes of this Act.

Central  
Government  
to provide  
requisite  
funds.

9. The Central Government shall, after due appropriation made by law by Parliament in this behalf, provide the adequate funds at the disposal of the States for carrying out the purposes of this Act.

Act to  
supplement  
other laws.

10. The provisions of this Act, shall be in addition to and not in derogation of any other law for the time being in force in any part of the country dealing with the welfare of farmers.

Power to  
make rules.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.



### STATEMENT OF OBJECTS AND REASONS

Ours is a vast country and nearly seventy per cent of our total population is engaged in farming. Due to its vastness, natural calamities do occur in one part or the other almost round the year. For instance, the whole of Rajasthan, part of Gujarat, West Bengal, Maharashtra, Bihar, Uttar Pradesh, Jharkhand, Madhya Pradesh, Chhattisgarh, etc. are drought prone areas. Every year half of Bihar is flooded and the other half faces drought. Similarly, in Southern States, coastal areas are prone to cyclones or tsunami whereas other part faces drought conditions. Many parts of the country face earthquake, hailstorm, cloud bursts, extreme cold conditions and other natural calamities. Farmers mostly bear the brunt of such natural calamities. They lose their crops, livestock and many a time their dwelling units and household items including foodgrains. Despite this, the farmers are hounded by the money-lenders to get back their money taken by the farmers. But natural calamity diminishes their hopes of returning the money and many of them end their lives in harness. Thousand of farmers have committed suicide in recent years in Andhra Pradesh, Maharashtra, Punjab, Uttar Pradesh, Madhya Pradesh, Tamil Nadu, Karnataka, Kerala etc. It is a pity that our farming community is under indebtedness. Removal of indebtedness has been a chronic and continuing problem for them which have to be dealt through consistent efforts by the respective State. Due to increase in life expectancy, the number of old farmers has increased manifold but most of them are not supported by their children due to various reasons leading thereby a miserable life. Since ours is a welfare State, the Government is duty bound to provide social security to the farmers by giving them old age pension, remunerative prices and providing them adequate compensation, if they are affected by natural calamity and by taking other welfare measures.

Hence, this Bill.

R.C. SINGH

---

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall give remunerative prices and provide compulsory insurance for the produce of the farmers. Clause 5 of the Bill provides for the establishment of the Farmers Welfare Fund. Clause 6 provides for compensation to farmers affected by natural calamity. Clause 7 provides for old age pension to farmers and Clause 9 provides that Central Government shall provide requisite and adequate funds to States for carrying out the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five thousand crore may involve as recurring expenditure per annum. A non-recurring expenditure to the tune of rupees one thousand crore may also involve.

---

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

## XIV

## Bill No. XIII of 2011

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title  
and  
commence-  
ment.

1. (1) This Act may be called the Constitution (Amendment) Act, 2011.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of  
new article  
24A.

2. After article 24 of the Constitution, the following article shall be inserted, namely:—

Right to  
corruption  
free service.

“24. Every citizen shall have the right to corruption—free service in all offices, organisations, public enterprises, cooperative societies and bodies under the State.”.

## STATEMENT OF OBJECTS AND REASONS

Corruption in India is a major concern. Today corruption is not only in Government department but is prevalent in public life. The economy of India is under the socialist inspired policies and subjected to extensive regulation, protectionism and public ownership, leading to persuasive corruption and slow growth. An estimated sum of rupees 26,768 crore are extracted from our citizens every year by means of corruption. Lower strata with lower earnings are hit harder due to corruption. A study conducted by Transparency International in India found that more than 75 per cent of the people had first hand experience of paying bribe or peddling influence to get a job done in a public office. During 2010, India was ranked 87th in 178 countries in Transparency International Corruption Perception Index. Another study on the illicit flight of money from India concludes that India has been drained of \$ 462 billion (over rupees 20 lakh crore) between 1948 to 2008. The amount is nearly 40 per cent of India's Gross Domestic Product.

Many avenues of corruption cannot be dealt with under the Prevention of Corruption Act, 1988. The corruption has down graded our image to such an extent that all our efforts have been nullified and resulted into poor governance characterised by lack of both transparency and accountability. It lowers investment and hinders economic growth and human development by limiting access to basic social services as well as the cost of their delivery. It also increases poverty, subverts the financial system and undermines the legitimacy of the States. The cost of corruption to a nation is very high. The spate of corruption scandals that has hit India in the recent past were 2G Telecom Licence Scam, Loan Bribery scam in grant of corporate loans, alleged tender manipulations in infrastructure and inflating bills for equipment in Commonwealth Games, 2010 and Mumbai's Adarsh Housing Scam.

Corruption cannot go unchecked. It will kill initiatives, industriousness and skill. It will develop a lack of sensibility and irresponsibility. When we are talking about transparency in administration and freedom of information, augmentation of use of Information Technology to enable quick and easy access to information and enacting law to protect whistle blower, etc. then, it would be much appropriate to talk about prevention of corruption which all go together. With this view, it is proposed to amend the Constitution to make corruption free service as a fundamental right.

Hence, this Bill.

R. C. SINGH

## XV

## Bill No. XVII of 2011

*A Bill to amend the Right of Children to Free and Compulsory Education Act, 2009.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2011.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2. **2.** In the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the principal Act), in section 2, —

(a) in clause (c), for the words "six to fourteen years", the words "three to eighteen years" shall be substituted;

(b) in clause (n), after the word "imparting" the words "pre-school education and/or" shall be inserted.

3. In section 3 of the principal Act, for the words "six to fourteen years", the words "three to eighteen years" shall be substituted.

Amendment  
of section 3.

4. In section 4 of the principal Act, for the words "Child above six years of age", the words "child above three years of age" shall be substituted.

Amendment  
of section 4.

5. In section 8 of the principal Act, in clause (a), for the Explanation the following shall be substituted namely:—

Amendment  
of section 8.

*Explanation.*—The term "compulsory education means obligation of the appropriate Government to—

"(i) provide free pre-school education and elementary school education to every child of the age of three to eighteen years; and"

"(ii) ensure compulsory admission, attendance and completion of pre-school education and elementary education by every child of the age of three to eighteen years."

6. In section 9 of the principal Act, in clause (d), for the words "up to the age of fourteen years", the words "up to the age of eighteen years" shall be substituted.

Amendment  
of section 9.

## STATEMENT OF OBJECTS AND REASONS

India being the signatory to the United Nations Convention on the Rights of the Child (UNCRC), had committed to Article 28 of the UNCRC, made it incumbent on the State to provide elementary education compulsory and free to all. The foundation of schooling is laid in the early years between the ages of three to six years. These early years are regarded as the foundation years and critical for mental and emotional development of a child. The age group is significant for brain development and sets the foundation for sound learning in later years. Hence, it is proposed that minimum age of children is to be reduced from six to three years so that this important age group is covered under the Right to Education Act. Moreover, the existing school system in our country consists minus two to plus two, accordingly, the maximum age of children for free and compulsory education be enhanced from fourteen to eighteen years.

Hence, this Bill.

P. RAJEEVE

## FINANCIAL MEMORANDUM

Clause 7 of the principal Act makes it obligatory for the Central and State Governments to provide funds for carrying out provisions of the Act. The proposed amendment Bill lower the entry level age from 6 to 3 years and increase the maximum age limit from 14 to 18 years of every child for free and compulsory education, thereby increasing the financial burden of the Central Government. The Bill, if enacted, would involve additional expenditure from the Consolidated Fund of India and it is very difficult to estimate the expenditure at this juncture as the same would depend upon the number of students added by the proposed amendment of the Act. No non-recurring expenditure is likely to be involved.

## XVI

## Bill No. XXIV of 2011

*A Bill to prohibit the use of endosulfan pesticide in agricultural activities with a view to preventing its harmful effects on human beings, environment and to provide relief to persons affected by the harmful effects of endosulfan and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Endosulfan Pesticide (Prohibition) Act, 2011.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and for different provisions of this Act.

2. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

3. In this Bill, unless the context otherwise requires:—

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government.

(b) “BPL family” means the Below Poverty Line family as determined by the Government of India.

(c) “Endosulfan” means the pesticide in use includes all its and alternative pesticides having the same composition by a different name.

Short title,  
extent and  
commence-  
ment.

Application  
of other laws  
not barred.

Definitions.

(d) "Pesticide Inspector" means an Inspector appointed under section 7.

(e) "prescribed" means prescribed by rules made under this Act.

(f) "Tribunal" means the tribunal constituted to adjudicate on matters referred to it on endosulfan pesticide under section 6.

Prohibition  
on use of  
Endosulfan

4. On and from such day as the Central Government may appoint in this behalf,—

(i) the use of endosulfan pesticide and its alternatives in agricultural and related activities; and

(ii) the import of endosulfan and its alternatives from other countries.

shall be prohibited.

Relief  
measures for  
persons  
affected by  
Endosulfan  
pesticide.

5. (1) Any person suffering from the adverse effects of endosulfan and his family, shall be considered as a BPL family by the appropriate Government and shall be eligible to all the compensation and benefits provided for the BPL families.

(2) The appropriate Government shall provide financial assistance of rupees four thousand per month to the family of any person affected by ill effects of endosulfan pesticide and the family shall continue to receive financial assistance of rupees two thousand per month for a period of another five years after the death of the affected person.

(3) All persons suffering due to the ill-effects of endosulfan shall be provided free treatment and special health care in district level Government hospitals or Government hospital or Government clinic nearest to their area of residence.

(4) The appropriate Government shall provide financial assistance of rupees two thousand per month to the persons who assist and take care of the persons affected by endosulfan pesticide.

(5) The Tribunal shall have the power to review the matters referred to it and shall decide on the compensation and relief for the aggrieved persons and also the punishment for violation of the provisions under this Act.

(6) The Tribunal shall also advise the Central Government and State Governments on development of safer alternatives to existing endosulfan pesticide as per latest global research and development.

Composition,  
functions and  
powers of the  
Tribunal.

6. (1) The appropriate Government shall by notification in the Official Gazette, constitute a Tribunal to deal with matters arising out of the provisions of this Act.

(2) The Tribunal shall consist of three members who shall decide on matters referred to it by the appropriate Government relating to endosulfan pesticide.

(3) One member of the tribunal shall be a retired judge of the High Court of the State and each of the two members shall be experts in public health and agricultural activities and practices respectively, and to be appointed by the Government of India, for a term of five years for each member of the Tribunal on such terms and conditions as may be prescribed.

(4) The Tribunal shall have such members of officers and staff on such terms and conditions as may be prescribed.

Appointment  
of Pesticide  
Inspector and  
its powers.

7. (1) The Tribunal shall appoint a person as it deems fit, possessing such technical and other qualifications as may be prescribed, to be a pesticide Inspector for specified districts as may be specified in the notification:

Provided that no person who has any financial interests in the manufacture, import and sale of any pesticide shall be appointed as Pesticide Inspector.

(2) The Pesticide Inspector shall have the power—

(a) to enter, search and seize, inspect documents necessary to carry out the



objectives of this Act, at all reasonable times and with such assistance, if any, as he considers necessary, any premises in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed, and report to the required authorities and to the Tribunal; or for the purpose of satisfying himself that the provisions of this Act or the rules made thereunder are being complied with; and

(3) to stop with the permission of the Executive Magistrate, the distribution, sale or use of endosulfan or alternative pesticide which he has reason to believe is being distributed or sold or used in activities in contravention of the provisions of this Act and report it to the Tribunal.

8. The Central Government shall provide, from time to time, after due appropriation made by Parliament by law in this behalf, requisite funds for carrying out the purposes of this Act.

Central  
Government  
to provide  
funds.

9. (1) Whoever violates any provisions of this Act or any rules made therein under shall be punishable with an imprisonment of not less than six months which may extend to two years or with the fine of not less than twenty-five thousand rupees which may extend to one lakh rupees or with both.

Penalty

(2) Whoever obstructs a Pesticide Inspector from exercising the powers and functions in discharging the duties provided under this Act shall be liable to pay a penalty of not less than rupees twenty-five thousand.

(3) Whoever manufactures, sells or exhibits for sale, the prohibited endosulfan pesticide under this Act, shall be liable to be punished with imprisonment of six months which may extend to two years or to pay a fine of not less than rupees twenty five thousand which may extend to two lakh rupees or with both.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to  
make rules.

## STATEMENT OF OBJECTS AND REASONS

Endosulfan is banned in more than sixty three countries worldwide for its hazardous effects on human beings and environment. India still continues to be the world's largest user of endosulfan and a major producer of it. The adverse impact of this pesticide on health and safety of human life cannot be overlooked. In Kerala, due to the use of this pesticide thousands of people have lost their lives. The Stockholm Convention on Persistent Organic Pollutants has recommended that Endosulfan be listed as a persistent organic pollutant. Keeping the interests of the farmers and environment, it is imperative to prohibit the practice of using this deadly pesticide and also to look for safer alternatives so that banning of this infectious pesticide does not harm the agricultural interests in any way.

Hence, this Bill.

P. RAJEEVE

## FINANCIAL MEMORANDUM

Clause 6 of the Bill seeks to constitute a Tribunal by the appropriate Government to deal with matters related to Endosulfan Pesticide and its alternatives. Clause 7 provides for appointment of Pesticide Inspector to exercise the powers entrusted to him under this Bill. Clause 8 of the Bill makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill.

The Bill, if enacted, will involve recurring as well as non-recurring expenditure from the Consolidated Fund of India though it is difficult to estimate the expenditure at this juncture.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

**XVII****Bill No. II of 2011**

*A Bill further to amend the Indian Penal Code, 1860.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2011.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In the Indian Penal Code, 1860, section 124A shall be omitted.

Short title  
and  
commencement.

Omission of  
section 124A  
of Act 45 of  
1860.

## STATEMENT OF OBJECTS AND REASONS

The Indian Penal Code was enacted in 1860 by the colonial Government of the British. The Act among others had penal sections to handle the law and order related to sedition against the British India before Independence of the India in 1947. Till then several freedom fighters were tried under the Sedition under the Indian Penal Code whom the nation reveres as great persons. The amendment history of the Sedition section 124A was that the British Crown after taking over the East India Company after the Sepoy Mutiny in 1857, inserted the clause 124A by Act 4 of 1898.

The very section 124A which was used by the British to oppress any opinion, criticism, argument on any matter related to the rule of British in India, and imposed on every Indian given the wider scope of the section on sedition such as that “whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law”, still remains and has been use in the Republic of India for the last 61 years.

India was under threat by internal and external forces to destabilise the unity and integrity of the nation for which several specialised laws were enacted and are under use. In the recent times, the section 124A has been brought under wide misuse and applied on individuals and organisations, despite the existence of specialised laws, merely for democratic expression of dissatisfaction towards the Government as specified under the section. In several fora and platforms, opinion has been expressed against the continuation of the section 124A lest it shall be misused keeping in view the low tolerance levels that have been visible in the recent times to lawful criticism. Such criticisms are essential for India to grow as a nation and bring in rule of law and equality among its citizens. Such existence of section 124A will be an affront to the fundamental rights and especially to freedom of speech under article 19 enjoined under the Constitution of India.

In view of the adverse affect of the section on individuals and organisations that work for the unity, integrity, equitable development of India and the citizens of the nation, it is felt necessary to delete section 124A from the Indian Penal Code, 1860.

Hence, this Bill.

D. RAJA

## XVIII

## Bill No. XXIII of 2011

THE ANTI-CORRUPTION, GRIEVANCE REDRESSAL AND  
WHISTLEBLOWER PROTECTION BILL, 2011

A

## BILL

*to provide for the establishment of effective anti-corruption and grievance redressal systems at the centre by creating effective deterrent against corruption and also to provide effective protection to whistleblowers and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Anti-Corruption, Grievance Redressal and Whistleblower Protection Act, 2011. Short title and commencement.

(2) It shall come into force at once.

2. In this Act, unless the context otherwise requires,— Definitions.

(a) “action” means any action taken by a public servant in the discharge of his functions as such public servant and includes decision, recommendation or finding or in any other manner and includes willful failure or omission to act and all other expressions relating to such action shall be construed accordingly;

(b) “allegation” in relation to a public servant includes any affirmation that such public servant—

(i) has indulged in misconduct, if he is a government servant;

(ii) has indulged in corruption;

(c) “complaint” includes any grievance or allegation or a request by whistleblower for protection and appropriate action;

(d) “corruption” includes anything made punishable under Chapter IX of the Indian Penal Code, 1860 or under the Prevention of Corruption Act, 1988;

45 of 1860.  
49 of 1988.

(e) “government” or “Central Government” means Government of India;

(f) “government servant” means any person who is or was any time appointed to a civil service or post in connection with the affairs of the Central Government or High Courts or Supreme Court either on deputation or permanent or temporary or on contractual employment but would not include the judges;

(g) “grievance” means a claim by a person that he sustained injustice or undue hardship in consequence of mal-administration;

(h) “Lokpal” means:

(i) benches constituted under this Act and performing their functions as laid down under various provisions of this Act, or

(ii) any officer or employee, exercising its powers and carry out its functions and responsibilities, in the manner and to the extent, assigned to it under this Act, or under various rules, regulations or orders made under various provisions of this Act;

(iii) for all other purposes, the Chairperson and members acting collectively as a body;

(i) “mal-administration” means action taken or purporting to have been taken in the exercise of administrative function in any case where,—

(i) such action or the administrative procedure or practice governing such action is unreasonable, unjust, oppressive or improperly discriminatory; or

(ii) there has been willful negligence or undue delay in taking such action or the administrative procedure or practice governing such action involves undue delay;

(j) “misconduct” means misconduct as defined in the Central Civil Services Conduct Rules and which has vigilance angle;

(k) “public authority” means any authority or body or institution of self-government established or constituted—

(i) by or under the Constitution;

(ii) by any other law made by Parliament;

(iii) by notification issued or order made by the Government, and includes any body owned, controlled or substantially financed by the Government;

(l) “public servant” means a person who is or was at any time,—

(i) the Prime Minister;

(ii) member of the Council of Ministers;

(iii) a Member of Parliament;

(iv) a Judge of High Courts or Supreme Court;

(v) a Government servant;

(vi) the Chairman or Vice-Chairman (by whatever name called) or a member of a local authority in the control of the Central Government or a statutory body or corporation established by or under any law of the Parliament of India, including a co-operative society, or a Government Company within the meaning of section 617 of the Companies Act, 1956 and members of any Committee or Board, statutory or non-statutory, constituted by the Government.

1 of 1956.

(vii) holding positions in such other authorities as the Central Government may, by notification, from time to time, specify;

(m) "vigilance angle" includes—

- (i) all acts of corruption;
- (ii) gross or wilful negligence; recklessness in decision making; blatant violations of systems and established procedures; exercise of discretion in excess, where no ostensible/public interest is evident; failure to keep the controlling authority or superiors informed in time;
- (iii) failure or delay in taking action, if under law the Government servant ought to do so, against subordinates on complaints of corruption or dereliction of duties or abuse of office by the subordinates;
- (iv) indulging in discrimination through one's conduct, directly or indirectly;
- (v) victimizing whistle blowers;
- (vi) any undue unjustified delay in the disposal of a case, perceived after considering all relevant factors, would reinforce a conclusion as to the presence of vigilance angle in a case;
- (vii) make unfair investigation or enquiry to either unduly help culprits or fabricate the innocent.
- (viii) any other matter as notified from time to time by the Lokpal.

(n) "whistleblower" means any person who faces threat of (i) professional harm, including but not limited to illegitimate transfers, denial of promotions, denial of appropriate perks, departmental proceedings, discrimination or (ii) physical harm or is actually subjected to such harm; because of either making a complaint to the Lokpal under this Act or for filing an application under Right to Information Act, 2005.

22 of 2005.

## CHAPTER II

### ESTABLISHMENT OF LOKPAL

**3. (1) There shall be an institution known as Lokpal which shall consist of a Chairperson and ten members along with its officers and employees.**

Establishment of the institution of Lokpal.

(2) The Chairperson and members of the Lokpal shall be selected in such manner as laid down in this Act.

(3) A person appointment as Chairperson or member of the Lokpal shall, before entering upon his office, make and subscribe before the President, an oath or affirmation in the form as prescribed.

(4) The Government shall appoint the Chairperson and members of the first Lokpal and set-up the institution with all its logistics and assets within six months of enactment of this Act.

(5) The Government shall fill up a vacancy of the Chairperson or a member caused due to—

- (a) retirement three months before the chairperson or the members retires.
- (b) Any other unforeseen reason, within a month of such vacancy.

**4. The Chairperson and members of the Lokpal shall not be sitting or former member of either the Parliament or the Legislature of any State and shall not hold any office or trust of profit (other than the office as Chairperson or member) or would have ever been connected with any political party or carry on any business or practice any profession and accordingly, before he enters upon his office, a person appointed as the Chairperson or member of Lokpal shall—**

Qualifications for appointment of Chairperson and Members of Lokpal.

- (i) if he holds any office of trust or profit, resign from such office; or
- (ii) if he is carrying on any business, sever his connection with the conduct and management of such business; or
- (iii) if he is practicing any profession, suspend practice of such profession; or
- (iv) if he is associated directly or indirectly with any other activity, which is likely to cause conflict of interest in the performance of his duties as Lokpal, he should suspend his association with that activity:

Provided that if even after the suspension, the earlier association of that person with such activity is likely to adversely affect his performance as Lokpal, that person shall not be appointed as a member or Chairperson of Lokpal.

Term of office and other conditions of service of Lokpal.

5. (1) A person appointed as the Chairperson or member of the Lokpal shall hold office for a term of five years from the date on which he enters upon his office;

Provided that,—

(a) the Chairperson or member of the Lokpal may, by writing under his hand addressed to the President, resign his office; or

(b) the chairperson or member may be removed from office in the manner provided in this Act.

(2) There shall be paid to the Chairperson and each member every month a salary equal to that of the Chief Justice of India and that of the judge of the Supreme Court respectively;

(3) The allowances and pension payable to and other conditions of service of the Chairperson or a member shall be such as may be prescribed:

Provided that the allowances and pension payable to and other conditions of service of the Chairperson or members shall not be varied to his disadvantage after his appointment.

(4) There shall be a separate fund by the name of "Lokpal fund" in which penalties or fines imposed by the Lokpal shall be deposited and in which ten per cent of the loss of Public Money detected or prevented on account of investigations by the Lokpal shall also be deposited by the Government.

(5) The disposal of such Lokpal fund shall be completely at the discretion of the Lokpal and such fund shall be used only for enhancement or upgradation or extension of the infrastructure of Lokpal.

(6) Any person if he has ever held the position of the Chairperson or a member of Lokpal for any period shall not be eligible for appointment on any position in the Government of India or Government of any State or for contesting elections:

Provided however that a member or Chairperson may be reappointed for one more term or a member may be appointed as the Chairperson, however, that any person shall not serve for more than a total of two terms.

Appointment of the Chairperson and members.

6. (1) The Chairperson and members shall be appointed by the President on the recommendation of a selection committee.

(2) Following persons shall not be eligible to become Chairman or Member of the Lokpal:

(a) Any person who was ever charge-sheeted for any offence under the Indian Penal Code 1860 or the Prevention of Corruption Act, 1988 or was ever penalized under Central Civil Services Conduct Rules.

45 of 1860.  
49 of 1988.

(b) Any person who is less than forty years of age.



- (3) At least four members of the Lokpal shall have legal background.
- (4) The selection committee referred to in sub-section (1) shall consist of :
- (i) two senior most judges of the Supreme Court,
  - (ii) two senior most Chief Justices of the High Courts,
  - (iii) all Nobel Laureates of Indian origin,
  - (iv) last three Magsaysay Award winners,
  - (v) comptroller and Auditor General of India,
  - (vi) Chief Election Commissioner,
  - (vii) after the first set of selection process, the outgoing Chairperson and members of Lokpal.
- (5) The senior most judge of the Supreme Court shall act as the Chairperson of the selection committee.
- (6) The selection committee shall followed the following selection process:—
- (a) recommendations for the post of Chairperson and members of Lokpal shall be invited through open advertisements in prescribed format;
  - (b) the candidates should have unimpeachable integrity and should have demonstrated their resolve and efforts to fight against corruption in the past;
  - (c) each person recommending any name shall be expected to justify the selection of his candidate giving examples from the past achievements of the candidate;
  - (d) the list of candidates along with their recommendations received in the format mentioned above shall be displayed on a website;
  - (e) each member of the selection committee, on the basis of the above material, shall recommend such number of names as there are vacancies;
  - (f) a priority list shall be prepared with the candidate receiving recommendations from maximum number of members of selection committee at the top and the candidates recommended by the same number of members shall be treated at par;
  - (g) this priority list shall be displayed on the website;
  - (h) around three times the names as per the vacancies, shall be short-listed from the top;
  - (i) public feedback shall be invited on the short-listed names by putting these names on the website;
  - (j) the selection committee may decide to use any means to collect more information about the background and past achievements of the short-listed candidates;
  - (k) selection committee shall invite short-listed candidates for discussions, video recordings of which shall be made public;
  - (l) all the material obtained so far about the candidates shall be made available to each member of the selection committee in advance to enable the members to make their own assessment of each candidate;
  - (m) the selection committee shall meet and discuss the material so received about each candidate and the final selections for the Chairperson and members shall be made preferably through consensus:
- Provided that if three or more members, for reasons to be recorded in writing, object to the selection of any member, he shall not be selected;

(n) All meetings of selection committee shall be video recorded and shall be made public;

(7) Selection Committee shall recommend the names to the President, who shall order such appointments within a month of receipt of the same.

Removal of  
Chairperson  
or members.

7. (1) The Chairperson or any member shall not be removed from this office except by an order of the President.

(2) The Chairman or any member can be removed on one or more of the following grounds,—

(a) Proved misbehaviour;

(b) Professional or physical incapacity;

(c) If he is adjudged to be insolvent;

(d) Has been charged of an offence which involves moral turpitude;

(e) If he engages during his term of office in any paid employment outside the duties of his office;

(f) Has acquired such financial interests or other interests which are likely to affect prejudicially his functions as member or Chairperson;

(g) If he is guided by considerations extraneous to the merits of the case either to favour someone or to implicate someone through any act of omission or commission;

(h) If he commits any act of omission or commission which is punishable under the Prevention of Corruption Act, 1988 or is a misconduct;

49 of 1988.

(i) If a member or the Chairperson in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall be deemed to be guilty of misbehaviour.

(3) The following process shall be followed for the removal of any member of Chairperson—

(a) Any person may move an application or petition before the Supreme Court seeking removal of one or more of the members or Chairperson of the Lokpal alleging one or more of the grounds for removal and providing evidence for the same; and

(b) The Supreme Court shall hear the matter in a bench of three or more Judges on receipt of such petition and may take one or more of the following steps—

(i) order on investigation to be done by a Special Investigation Team appointed by the Supreme Court, if a *prima facie* case is made out and if the matter cannot be judged based on affidavits of the parties;

(ii) dismiss the petition if, no case is made out;

(iii) if the grounds are proved, recommend to the President for removal of the said member or Chairperson; or

(iv) direct registration and investigation of cases with appropriate agencies if, there is *prima facie* case of commission of an offence punishable under the Prevention of Corruption Act, 1988.

49 of 1988.

(c) the Supreme Court shall not dismiss such petitions in liminae;

(d) if the Supreme Court concluded that the petition has been made with mischievous or mala fide motives, the Court may order imposition of fine or imprisonment upto one year against the complainant; and

(e) on receipt of a recommendation from the Supreme Court under this section, the President shall order removal of Chairperson or member within a month of the receipt of the same.

### CHAPTER III

#### POWERS AND FUNCTIONS OF LOKPAL

Powers and  
Functions of  
Lokpal.

8. (1) The Lokpal shall be responsible for receiving,—

49 of 1988.

(a) complaints where there are allegations of such acts of omission or commission which are punishable under the Prevention of Corruption Act, 1988;

(b) complaints where there are allegations of misconduct by a government servant;

(c) grievances; and

(d) complaints from whistleblowers.

(2) The Lokpal after getting such inquiries and investigations done as it deems fit, may take one or more of the following actions:

(a) close the case, if *prima facie*, the complaint is not made out; or

(b) initiate prosecution against public servants as well as those private entities which are party to the act; and

(c) order imposition of appropriate penalties under the Central Civil Services Conduct Rules:

49 of 1988.

Provided that if, an officer is finally convicted under the Prevention of Corruption Act, 1988 major penalty of dismissal shall be imposed on such government servant.

(d) order cancellation or modification of a license or lease or permission or contract or agreement, which was the subject matter of investigation;

(e) blacklist the concerned firm or company or contractor or any other entity involved in that act of corruption;

(f) issue appropriate directions to appropriate authorities for redressal of grievance in such time and in such manner as is specified in the order;

(g) invoke its powers under this Act if, its orders are not duly complied with and ensure due compliance of its orders; or

(h) take necessary action to provide protection to a whistleblower as per various provisions of this Act.

(3) *Suo-motu* initiate appropriate action under this Act if any case, of the nature mentioned in clauses (a), (b), (c) or (d) of sub-section (1) comes to the knowledge of the Lokpal from any source.

(4) issue such directions, as are necessary, from time to time, to appropriate authorities to make such changes in their work practices, administration or other systems so as to reduce the scope and possibility for corruption, misconduct and public grievances.

(5) The Lokpal shall be deemed to be “Disciplinary authority” or “Appointing authority” for the purpose of imposing penalties under CCS Conduct Rules.

2 of 1974.

(6) Section 197 of the Code of Criminal Procedure, 1973 shall not apply to any proceedings under this Act. All permissions, which need to be sought for initiating investigations or for initiating prosecutions under any Act shall be deemed to have been granted once the Lokpal grants such permissions.

Search and  
Seizure.

9. (1) Where, in consequence of information in his possession, the Lokpal—

(a) has reason to believe that any person,—

(i) to whom a summon or notice under this Act, has been or might be issued, will not produce or cause to be produced any property, document or thing which will be necessary or useful for or relevant to any inquiry or other proceeding to be conducted by him;

(ii) is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been disclosed to the authorities for the purpose of any law or rule in force which requires such disclosure to be made; or

(b) considers that the purposes of any inquiry or other proceedings to be conducted by him will be served by a general search or inspection.

He may by a search warrant authorize any Police Officer not below the rank of an Inspector of Police to conduct a search or carry out an inspection in accordance therewith and in particular to,—

(i) enter and search any building or place where he has reason to suspect that such property, document, money, bullion, jewellery or other valuable article or thing is kept;

(ii) search any person who is reasonably suspected of concealing about his person any article for which search should be made;

(iii) break open the lock of any door, box, locker safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i) where the keys thereof are not available;

(iv) seize any such property, document, money, bullion, jewellery or other valuable article or thing found as a result of such search;

(v) place marks of identification on any property or document or make or cause to be made; extracts or copies therefrom; or

(vi) make a note or an inventory of any such property, document, money, bullion, jewellery or other valuable article or thing.

(2) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizures shall apply, so far as may be, to searches and seizures under sub-section (1). 2 of 1974.

(3) A warrant issued under sub-section (1) shall for all purposes, be deemed to be a warrant issued by a court under section 93 of the Code of Criminal Procedure, 1973. 2 of 1974.

Evidence.

10. (1) Subject to the provisions of this section, for the purpose of any investigation (including the preliminary inquiry, if any, before such investigation) under this Act, the Lokpal may require any public servant or any other person who, in his opinion is able to furnish information or produce documents relevant to the investigation, to furnish any such information or produce any such document.

(2) For the purpose of any such investigation (including the preliminary inquiry) the Lokpal shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(a) Summoning and enforcing the attendance of any person and examining him on oath;

(b) Requiring the discovery and production of any document;

(c) Receiving evidence on affidavits;

(d) Requisitioning any public record or copy thereof from any court or office;

- (e) Issuing commissions for the examination of witnesses or documents;
- (f) Ordering payment of compensatory cost in respect of a false or vexatious claim or defence;
- (g) Ordering cost for causing delay;
- (h) Such other matters as may be prescribed.

45 of 1860. (3) Any proceeding before the Lokpal shall be deemed to be a judicial proceeding with in the meaning of section 193 of the Indian Penal Code, 1860.

11. (1) The Chairperson of Lokpal shall present annually a consolidated report in prescribed format on its performance to the President. Reports of Lokpal.

(2) On receipt of the annual report, the President shall cause a copy thereof together with an explanatory memorandum to be laid before each House of the Parliament.

(3) The Lokpal shall upload, every month on its website the list of cases disposed with brief details of each such case, outcome and action taken or proposed to be taken in that case along with lists of all cases received by the Lokpal during the previous month, cases disposed and cases which are pending.

2 of 1974. 12. (1) For the purposes of section 36 of the code of Criminal Procedure 1973, the Chairperson, members of the Lokpal and the officers in investigation wing of the Lokpal shall be deemed to be police officers. Lokpal to be deemed police officer.

49 of 1988. (2) While investigating any offence under the Prevention of Corruption Act, 1988, they shall be competent to investigate any offence under any other law in the same case.

13. (1) Each order of the Lokpal shall clearly specify the names of the officials who are required to execute that order, the manner in which it should be executed and the time period within which that order should be complied with. Powers of Lokpal in case of non-compliance of orders.

(2) If the order is not complied with within the time or in the manner directed, the Lokpal may decide to impose a fine on the officials responsible for the non-compliance of its orders.

(3) The Drawing and Disbursing Officer of the concerned Department shall be directed to deduct such amount of fine as is clearly specified by the Lokpal in its order made in sub-section (2) from the salaries of the officers specified in the order:

Provided that no penalty shall be imposed without giving the Officer a reasonable opportunity of being heard:

Provided further that if the Drawing and Disbursing Officer fails to make deduct on from the salary as specified in the said order, he shall make himself liable for a similar penalty.

70 of 1971. (3) In order to get its orders complied with, the Lokpal shall have, and exercise the same jurisdiction powers and authority in respect of contempt of itself as a High Court has and may exercise, and, for this purpose, the provisions of the Contempt of Courts Act, 1971 shall have the effect subject to the modification that the references therein to the High Court shall be construed as including a reference to the Lokpal.

49 of 1988. 14. On an annual basis, the Lokpal shall make an assessment of the number of Special Judges required under section 4 of the Prevention of Corruption Act, 1988 in each area and the Government shall appoint such number of Judges within three months of receipt of such recommendation: Number of Special Judges for trial.

Provided that the Lokpal shall recommend such number of Special Judges so that trial in each case under this Act is completed within a year.

15. (1) The Chairperson shall be responsible for overall administration and supervision of the institution of Lokpal. Functioning of Lokpal.

(2) All policy level decisions including formulation of regulations, developing internal

systems for the functioning of the Lokpal, assigning functions to various officials in the Lokpal, delegation of powers to various functionaries in the Lokpal etc. shall be taken by the Chairperson and the members collectively as a body.

(3) The Chairperson shall have an annual meeting with the Prime Minister to assess the needs of the Lokpal for finances and manpower and the Lokpal shall be provided required resources by the Government on the basis of outcome of such meeting.

(4) The Lokpal shall function in benches of three or more members which shall be constituted randomly and cases shall be assigned to them randomly by computer.

(5) Each bench shall consist of at least one member with legal background.

(6) The benches shall be responsible for:—

(i) granting permission to close any case after a preliminary inquiry;

(ii) granting permission to either close a case after investigations or issuing orders imposing penalties under Central Civil Service Conduct Rules and/or for initiating prosecution in that case;

(iii) Issuing orders under section 26.

(7) The Lokpal may decide to initiate investigations into any case *suo-motu* also.

(8) The Chairperson shall chair all the meetings of the Lokpal.

(9) The decision to initiate investigation or prosecution against any member of the Cabinet or any judge of the High Court or the Supreme Court shall be taken in a meeting of all the existing members and the Chairperson and the minutes and records of such meetings shall be made public.

## CHAPTER IV

### COMPLAINT MAKING MECHANISM AND PROTECTION OF COMPLAINT AND PUNISHMENT

Procedure for making a complaint to the Lokpal.

16. (1) Subject to the provisions of this Act, any person may make a complaint under this Act to the Lokpal:

Provided that in case of a grievance, if the person aggrieved is dead or for any reason, unable to act for himself, the complaint may be made or if, it is already made, may be continued by his legal representatives or by any other person who is authorized by him in writing in this behalf.

(2) A complaint could be on a plain paper but should contain all such details as prescribed by the Lokpal.

(3) On receipt of a complaint, the Lokpal shall decide whether it is an allegation or a grievance or a request for whistleblower protection or a mixture of two or more of these.

(4) Every complaint shall have to be compulsorily disposed of by the Lokpal within a specified time as may be prescribed:

Provided that no complaint, other than those which are anonymous, shall be closed without hearing the complainant.

Matters to be investigated by the Lokpal.

17. Subject to the provisions of this Act, the Lokpal may investigate any action which is taken by or with the general or specific approval of a public servant where a complaint involving a grievance or an allegation is made in respect of such action:

Provided that the Lokpal may also investigate such action *suo-motu* or if it is referred to it by the Government, if such action can be or could have been in his recorded opinion, subject of a grievance or an allegation.

18. (1) The Lokpal shall not conduct any investigation under this Act in case of a grievance in respect of any action,—

Matters not  
subject to  
investigation.

(i) if the complainant has or had, any remedy by way of appeal, revision, review or any other remedy before any other authority provided in any other law and he has not availed of the same;

(ii) taken by a judicial or quasi-judicial body, unless the complainant alleges malafides;

(iii) if the substance of the entire grievance is pending before any court or quasi-judicial body of competent jurisdiction;

(iv) if there is inordinate and inexplicable delay.

(2) Nothing in this Act shall be construed as authorising the Lokpal to investigate any action which is taken by or with the approval of the Presiding Officer of either House of Parliament.

(3) The provisions of this Act shall be in addition to the provisions of any other enactment or any rule or law under which any remedy by way of appeal, revision, review or in any other manner is available to a person making a complaint under this Act in respect of any action and nothing in this Act shall limit or affect the right of such person to avail of such remedy.

(4) Nothing in this section shall bar the Lokpal from entertaining a complaint making an allegation of misconduct or corruption or a complaint from a whistleblower seeking protection.

19. (1) The Lokpal, on receipt of a complaint in the nature of an allegation or a grievance or a combination of the two, or in a case initiated on his own motion, may on perusing the documents, either decide to proceed to inquire or investigate into that complaint or decide, to make such preliminary inquiry before proceeding to inquire or investigate into such complaint or direct any other person to make such preliminary inquiry as it deems fit for ascertaining whether there exists reasonable ground for conducting the investigation.

Procedure  
relating to  
complaints  
and  
investigations.

(2) The outcome of such preliminary inquiry, and if the complaint is being closed along with reasons for the same and all material collected during preliminary inquiry, shall be communicated to the complainant:

Provided that if any case is closed, all documents related thereto shall thereafter be treated as public:

Provided further that if the complaint contains verifiable and specific information about misconduct or corruption, then that case shall not be rejected even if the complaint is anonymous:

Provided also that no complaint of allegation shall be rejected by questioning the motives or intention of the complainant:

Provided again that all hearings before the Lokpal shall be video recorded and shall be available to any member of the public on payment or copying costs.

(3) Every month, a list of all such cases shall be put on the website with reasons for closing a case and all material connected with such closed cases will be provided to anyone seeking it under Right to Information Act, 2005.

(4) The procedure for preliminary inquiry of a complaint shall be such as the Lokpal deems appropriate in the circumstances of the case and in particular, the Lokpal may, if it deems necessary to do so, call for the comments of the public servant concerned:

Provided that the preliminary inquiry shall be completed and a decision shall be taken whether to close a case or to proceed with investigations within one month of receipt of any complaint.

(5) Where the Lokpal proposes, either directly or after making preliminary inquiry, to conduct any investigation under this Act, he,—

(a) may make such order as to the safe custody of documents relevant to the investigations, as it deems fit;

(b) at appropriate stage of investigations or in the end, shall forward a copy of the complaint, his findings and copy of the material relied upon to the concerned public servant and the complainant;

(c) shall afford to such public servant and the complainant an opportunity to offer comments and be heard:

Provided that such hearing shall be held in public, except in such rare circumstances, to be recorded in writing, it may be held in camera.

(6) The conduct of an investigation under this Act against a Public servant in respect of any action shall not affect such action, or any power or duty of any other public servant to take further action with respect to any matter subject to the investigation.

(7) If, during the course of preliminary inquiry or investigation under this Act, the Lokpal is *prima facie* satisfied that the allegation or grievance in respect of any action is likely to be sustained either wholly or partly, he may, through an interim order, direct the public servant concerned to stay the implementation or enforcement of the decision or action complained against, or to take such mandatory or preventive action, on such terms and conditions, as he may specify in his order to prevent further harm from taking place.

(8) The Lokpal, either during the course of investigations, if he is satisfied that prosecution is likely to be initiated in that case, or at the end of the investigations at the time of initiating prosecution, shall make a list of the assets of all the accused in that case and shall notify the same.

(9) In the event of final conviction, the court shall be empowered to recover loss determined under section 20 of this Act from this property and transfer any of property subsequent to the date of notification by the Lokpal under this sub-section shall be treated as null and void.

(10) If during the course of investigation or inquiry into a complaint. The Lokpal feels that continuance of a public servant in that position could adversely affect the course of investigations or inquiry or that the said person is likely to influence evidence or witnesses, the Lokpal may issue appropriate orders including transfer of that public servant from that position or his suspension:

Provided that such orders shall not be passed against the Prime Minister.

(11) In case of a grievance, the Lokpal may issue interim orders to the appropriate authority recommending grant of interim relief to the complainant, if he is satisfied at any stage of preliminary inquiry or investigation that the complainant has sustained injustice or undue hardship in consequence of any decision or action of a public servant.

(12) The Lokpal may, at any stage of inquiry or investigation under this Act, direct through an interim order, the appropriate authorities to take such action as is necessary, including suspension of a Government servant, pending inquiry or investigation,—

(i) to safeguard wastage or damage of public property or public revenue by the administrative acts of the public servant;

(ii) to prevent further acts of misconduct by the public servant;

(iii) to prevent the public servant from secreting the assets allegedly acquired by him by corrupt means.

(13) Where after investigation into a complaint, the Lokpal is satisfied that the complaint



involving an allegation against the public servant is substantiated and that the public servant concerned should not continue to hold the post held by him, the Lokpal shall pass orders to that effect:

Provided that if public servant is a Government servant, he shall be deemed to have vacated the position with effect from receipt of such order.

(14) In case of public servants other than Government servants the Lokpal shall make such recommendation to the President, who shall decide either to accept such recommendation or reject it within a month of its receipt.

(15) If, after inquiry into a grievance and after affording reasonable opportunity of being heard to both the complainant and the public authority, the Lokpal is satisfied that such grievance is substantiated either wholly or partly, he shall,—

(i) pass appropriate orders directing appropriate authorities to redress the grievance in a manner and within the time prescribed in the order, and

(ii) direct the appropriate authorities to deduct from the salary of the officials mentioned in the order amount calculated and specified in the order at the rate of Rs. Two Hundred Fifty per day of delay calculated from day the time limit mentioned in citizens' charter for redressing that grievance got over, and

(iii) direct the appropriate authorities to compensate the complainant with such amounts as mentioned in the order:

Provided that any grievance shall be disposed within fifteen days of its receipt:

Provided further that if, it relates to life and liberty of a person or if the matter is such as to warrant immediate attention and the Lokpal is so satisfied, the same shall be disposed within forty eight hours.

22 of 2005. (16) All records and information of the Lokpal shall be public and shall be provided under Right to Information Act, 2005 even at the stage of investigation or inquiry, unless release of such information would adversely affect the process or inquiry or investigation:

22 of 2005. Provided that no information in any case shall be withheld under the Right to Information Act, 2005 after the completion of inquiry or investigation.

20. (1) A whistleblower may write to the Lokpal seeking protection from threat of physical or professional victimization or if he has been subjected to such professional or physical victimization.

Protection of Whistleblower.

(2) On receiving such a complaint, the Lokpal shall take following steps,—

(a) On threat of professional victimization the Lokpal shall conduct appropriate inquiries and if, it feels that there is a real threat to the person and the threat is on account of that person having made an allegation under this Act, then the Lokpal shall pass appropriate orders, as soon as possible but in not more than a month of receipt of such complaint, directing appropriate authorities to take such steps as directed by the Lokpal.

(b) If a person complains that he has already been victimized professionally on account of making an allegation under this Act, the Lokpal shall, after conducting inquiries, if he is of the opinion that the victimization is indeed because of that person's having made an allegation under this Act, pass appropriate orders, as soon as possible but in not more than a month, directing appropriate authorities to take such steps as directed by the Lokpal:

Provided that for clause (a) the Lokpal may, but for clause (b) the Lokpal shall, also issue orders imposing penalties under Central Civil Services Conduct Rules against the officer or officials who issued threats or caused victimization:

Provided further that no such penalties shall be imposed without giving an opportunity of being heard to the affected officials.

(c) On threat of physical victimization, the Lokpal shall conduct appropriate inquiries and if, it feels that there is a real threat to the person and the threat is on account of that person having made an allegation under this Act or for having filed an under the Right to Information, Act, 2005 application to any public authority covered under this Act, then notwithstanding anything contained in any other law, the Lokpal shall pass appropriate orders, as soon as possible but in not more than a week, directing appropriate authorities, including police, to take such steps as directed by the Lokpal to provide adequate security to that person, to register criminal cases against those who are issuing threats and also to take all such steps necessary to mitigate circumstances leading to such threat: 22 of 2005.

Provided that if the threat is imminent, the Lokpal may decide to act immediately, within a few hours to prevent physical assault on that person.

(d) If a person complains that he has already been physically assaulted on account of making an allegation under this Act and if the Lokpal is satisfied after conducting inquiries that the person has been assaulted because of his having made an allegation under this Act or for filing an under Right the Information Act, 2005 application in any of the public authorities covered under this Act, then notwithstanding anything else contained in any other law, the Lokpal shall pass such orders, as soon as possible but in not more than twenty-four hours, directing the concerned authorities to take such steps as directed by the Lokpal to provide adequate security to that person, to register criminal cases and also to ensure that no further harm is done to that person. 22 of 2005.

(e) If the whistleblower has alleged an act punishable under the Prevention of Corruption Act, 1988 then for cases under clause (c), the Lokpal may and for cases under clause (d), the Lokpal shall, assign the allegations made by that person to a special team, put it on a fast track and complete investigations in that case in not more than a month. 49 of 1988.

(f) If the whistleblower has alleged an act punishable under any law other than the Prevention of Corruption Act, 1988 then for cases under clause (c), the Lokpal may and for cases under clause (d), the Lokpal shall, direct the agency which has the powers to enforce that law to assign the allegations made by the whistleblower to a special team, put it on a fast track and complete investigation in that case in such time as directed by the Lokpal. 49 of 1988.

(g) The Lokpal shall have the powers to issue directions to appropriate agencies in the cases covered under clause (f), monitor such investigations and if necessary, issue directions to that agency to do the investigations in the manner as directed by the Lokpal.

(3) If any complainant requests that his identity should be kept secret, the Lokpal shall ensure the same and shall prescribe detailed procedures on how such complainants shall be dealt with.

(4) The Lokpal shall issue orders to the public authorities to make necessary changes in their policies and practices to prevent recurrence of victimization.

## CHAPTER V

### GRIEVANCE REDRESSAL SYSTEMS

21. (1) Each public authority shall be responsible for ensuring the preparation and implementation of Citizens' Charter, within a reasonable time, and not exceeding one year from the coming into force of this Act.

(2) Every Citizens' Charter shall enumerate the commitments of the respective public authority to the citizens, officer responsible for meeting such commitment and the time limit within which the commitment shall be met.

(3) Each public authority shall designate an official called Public Grievance Redressal Officer, whom a complainant shall approach for any violation of the Citizens' Charter.

(4) Every public authority shall review and revise its Citizens' Charter at least once every year through a process of public consultation.

(5) The Lokpal may by an order direct any public authority to make such changes in their Citizens' Charter as are mentioned in that order.

(6) No grievance shall be accepted by the Lokpal if fifteen days have not elapsed after submission of complaint by the complainant with the Public Grievance Redressal Officer of Public Authority:

Provided that if the Lokpal feels that considering the gravity or urgency of the grievance, it is necessary to do so, the Lokpal may decide to accept such grievance earlier also.

## CHAPTER VI

### AUTHORITIES AND STAFF OF LOKPAL

22. (1) There shall be a Chief Vigilance Officer in each public authority to be selected and appointed by the Lokpal.

Chief  
Vigilance  
Officer.

(2) The Chief Vigilance Officer shall not be from the same public authority and shall be a person of impeccable integrity and ability to take proactive measures against corruption.

(3) The Chief Vigilance Officer shall be responsible for accepting complaints against any public authority and shall transfer the complaints related to other public authorities within two days of receipt.

(4) The Chief Vigilance Officer shall be responsible for carrying out all such responsibilities as assigned to him from time to time by the Lokpal including dealing with complaints in the manner as laid down by the Lokpal from time to time:

Provided that the complaints which require investigations under the Prevention of Corruption Act, 1988 shall be transferred to the Investigative Wing of the Lokpal:

49 of 1988.

Provided further that the complaints, other than grievances, against officers of the level of Joint Secretary or above shall not be dealt by the Chief Vigilance Officer and shall be transferred to the Lokpal, who shall set up a committee of Chief Vigilance Officers of three other public authorities to inquire into such complaint.

23. (1) There shall be such officers and employees as may be prescribed to assist the Lokpal in the discharge of his functions under this Act.

Staff of  
Lokpal.

(2) The number and categories of officer and employees shall be decided by the Lokpal in consultation with the Government.

(3) The categories, recruitment and conditions of service of the officers and employees referred in sub-section (1) including such special conditions or special pay as may be necessary for enabling them to act without fear in the discharge of their functions, shall be such as may be prescribed according to the recommendations of the Lokpal:

Provided that no official, whose integrity is in doubt, shall be considered for being posted in Lokpal:

Provided further that all officers and employees, who work in Lokpal on deputation or otherwise shall be eligible for the same terms and conditions as prescribed under this clause.

(4) Without prejudice to the provisions of sub-section (1), the Lokpal may for the purpose of conducting investigations under this Act utilize the services of—

(a) any officer or investigating agency of the Government; or

(b) any officer or investigating agency of any other Government with the prior concurrence of that Government; or

(c) any person or any other agency.

(5) The officers and other employees referred to in sub-section (1) shall be under the administrative and disciplinary control of the Lokpal.

(6) The Lokpal shall have the power to choose its own officials for which the Lokpal may enlist officials on deputation from other Government agencies for a fixed tenure or it may enlist officials on permanent basis from other Government agencies or it may appoint people from outside on permanent basis or on a fixed tenure basis.

**(7) The Staff and officers shall be entitled to such pay scales and other allowances, which may be different and more than the ordinary pay scales in the Central Government, as are decided by the Lokpal from time to time, in consultation with the Prime Minister, so as to attract honest and efficient people to work in the Lokpal.**

Repeal and  
savings.

**24. (1) The Central Vigilance Commission Act, 2003 shall stand repealed.**

45 of 2003.

(2) Notwithstanding such repeal, any act or thing done under the said Act shall be deemed to have been done under this Act and may be continued and completed under the corresponding provisions of this Act.

(3) All inquiries and investigations and other disciplinary proceedings pending before the Central Vigilance Commission and which have not been disposed of, shall stand transferred to and be continued by the Lokpal as if they were commenced before him under this Act.

(4) Notwithstanding anything contained in any Act, the posts of the Secretary and other Officers and Employees of the Central Vigilance Commission are hereby abolished and they are hereby appointed as the Secretary and other officers and employees of the Lokpal.

(5) The salaries, allowances and other terms and conditions of services of the said secretary, officers and other employees shall, until they are varied, be the same as to which they were entitled to immediately before the commencement of this Act.

(6) All vigilance administration under the control of all Ministries/Departments of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government shall stand transferred, along with its personnel, assets and liabilities to the Lokpal for all purposes.

(7) The personnel working in vigilance wings of the agencies mentioned in sub-section (6) shall be deemed to be on deputation to the Lokpal for a period of five years from the date they are transferred to the Lokpal:

Provided, the Lokpal may decided to repatriate any personnel anytime.

(8) The Department from where any personnel have been transferred to the Lokpal under sub-section (6) shall cease to have any control over the administration and functions of transferred personnel.

(9) The Lokpal shall rotate the personnel and create vigilance wing of each department in such a way that no personnel from the same department get posted for vigilance functions in the same department.

(10) No person shall be employed with the Lokpal against whom any vigilance inquiry or any criminal case is pending at the time of being considered.

25. (1) There shall be an investigation wing at the Lokpal.

Investigation  
Wing of  
Lokpal.

49 of 1988.

(2) Notwithstanding anything contained in section 17 of the Prevention of Corruption Act, 1988 such officers of Investigation wing, upto the level as decided by the Lokpal, shall have, in relation to the investigation and arrest of persons throughout India, in connection with investigation of complaints under this Act, all the powers, duties, privileges and liabilities which members of Delhi Special Police Establishment have in connection with the investigation of offences committed therein.

49 of 1988.

(3) The part of the Delhi Special Police Establishment, in so far as it relates to investigation and prosecution of offences alleged to have been committed under the Prevention Corruption Act, 1988, shall stand transferred, along with its employees, assets and liabilities to the Lokpal for all purposes.

(4) The part of the Delhi Special Police Establishment, which has been transferred under sub-section (3), shall form part of Investigation Wing of the Lokpal.

(5) The Central Government shall cease to have any control over the transferred part and its personnel.

(6) The salaries, allowances and other terms and conditions of services of the personnel transferred under sub-section (3) shall be the same as to which they were entitled to immediately before the commencement of this Act.

(7) All cases which were being dealt by that part of the Delhi Special Police Establishment, which has been transferred under sub-section (3), shall stand transferred to the Lokpal.

(8) After completion of investigation in any case, the investigation wing shall present the case to an appropriate bench of the Lokpal, which shall decide whether to grant permission for prosecution or not.

26. (1) The Complaints against employees or officers of the Lokpal shall be dealt with separately and as per provisions of this section.

Complaints  
against  
officers or  
employees of  
Lokpal.

49 of 1988.

(2) There shall be a separate wing in the Lokpal to deal with complaints against officers or staff of the Lokpal.

(3) Complaint under this section may relate to an allegation of an offence punishable under the Prevention of Corruption Act, 1988 or a misconduct or a dishonest inquiry or investigation.

(4) As soon as such a complaint is received the same shall be displayed on the website of the Lokpal along with the contents of the complaint.

(5) Investigations into each such complaint shall be completed within a month of its receipt.

45 of 1860.

(6) In addition to examining the allegations against the said official, the allegations shall especially be examined against sections 107, 166, 167, 177, 182, 191, 192, 196, 199, 200, 201, 202, 204, 217, 218, 219, 463, 464, 468, 469, 470, 471, 474 of the Indian Penal Code, 1860.

(7) If, during the course of investigations, the Lokpal feels that the charges are likely to be sustained, the Lokpal shall divest such officer of all his responsibilities and powers and shall place him under suspension.

49 of 1988.

(8) If after completion of inquiry or investigations, the Lokpal decides to prosecute that person under the Prevention of Corruption Act, 1988 or holds him guilty of any misconduct or of conducting dishonest inquiry or investigations, then that person shall not work with the Lokpal anymore.

(9) The Lokpal shall either dismiss that person from the job, if that person is in the employment of the Lokpal, or shall repatriate him, if he is on deputation:

Provided that no order under this clause shall be passed without giving reasonable opportunity of being heard to the accused person:

Provided further that order under this clause shall be passed with fifteen days of completion of investigations.

(10) The Lokpal shall take all steps to ensure that all inquiries and investigations on complaints against its own staff and officials are conducted in most transparent and honest manner.

## CHAPTER VII

### MISCELLANEOUS

Protection of  
action taken  
in good faith.

27. (1) No suit, prosecution, or other legal proceedings shall lie against the Chairperson or members or against any officer, employee, agency or person referred to in Section 15(4) in respect of anything which is done in good faith while acting or purporting to act in the discharge of his official duties under this Act.

(2) No proceedings of the Lokpal shall be held to be bad for want of form and except on the ground of jurisdiction, no proceedings or decision of the Lokpal shall be liable to be challenged, reviewed, quashed or called in question in any court of ordinary Civil Jurisdiction.

Public  
Servants to  
submit annual  
property  
statements.

28. (1) Every public servant, other than those mentioned in section 2(k) (i) to (iii), shall within three months after the commencement of this Act and thereafter before the 30th June of every year submit to the head of the public authority, in the form prescribed by Lokpal, a statement of his assets and liabilities and those of the members of his family.

(2) Public servants mentioned in section 2 (k) (i) to (iii) shall submit their returns in a format prescribed by the Lokpal to the Lokpal with the aforesaid time lines.

(3) The Head of each public authority shall ensure that all such statements are put on the website by the 31st of August of that year.

(4) If no such statement is received by the Head of that public authority from any such public servant within the time specified in sub-section (1), the Head of that public authority shall direct the concerned public servant to do so immediately and if within next one month, the public servant concerned does not submit such statement, the Head shall stop the salary and allowances of that public servant till he submits such statement.

(5) The Lokpal on new compliance sub-section (1) and (2) may initiate prosecution against such public servant under Section 176 Indian Penal Code, 1860.

45 of 1860.

(6) If any public servant furnishes any statement, which is subsequently found to be incorrect, then the Lokpal, in addition to taking action against the said public servant under other sections of this Act, may also impose a penalty upto a maximum of fifty per cent of the value of the additional property subsequently detected.

(7) The Lokpal shall also intimate such information to the Income Tax Department for appropriate action.

*Explanation.*—In this section “family of a public servant” means the spouse and such children and parents of the public servant as are dependent on him.

Power to  
delegate and  
assign  
functions.

29. (1) The Lokpal shall be competent to delegate its powers and assign functions to the officials working in the Lokpal.

(2) All functions carried out and powers exercised by such officials shall be deemed to have been so done by the Lokpal:

Provided that the following functions shall be performed by the benches and cannot be delegated:

(i) granting permission to initiate prosecution in any case;

(ii) Order for dismissal of any Government servant under CCS Conduct Rules;

(iii) passing orders under section 10 on complaints against officials and staff of the Lokpal;

(iv) pass orders in cases of complaints, other than grievances, against officers of the level of Joint Secretary and above.

30. (1) The Preliminary inquiry under sub-section (1) of section 19 of this Act be completed within a month of receipt of complaint:

Time limits to be fixed for inquiry.

Provided that the inquiry officer shall be liable for an explanation if the inquiry is not completed within this time limit.

(2) Investigation into any allegation shall be completed within six months, and in any case, not more than one year, from the date of receipt of complaint.

31. (1) Notwithstanding anything contained in this Act, if someone makes any false or frivolous complaint under this Act, the Lokpal may impose such fines on that complainant as it deems fit:

Penalty for false complaint.

Provided that no fine can be imposed without giving such person a reasonable opportunity of being heard.

(2) Fines imposed under sub-section (1) shall be recoverable as dues of land revenue.

32. (1) The Lokpal shall, at regular intervals either study itself or cause to be studied the functioning of all public authorities falling within its jurisdiction and in consultation with respective public authority, issue such directions as it deems fit to prevent incidence of corruption in future.

Preventive measures.

(2) The Lokpal shall also be responsible for creating awareness about this Act and involving general public in curbing corruption and maladministration.

33. Notwithstanding anything contained in this Act, the President, in consultation with the Lokpal or on request of the Lokpal may, by order, make such provision,—

Removal of difficulties.

(i) for brining the provisions of this Act into effective operation;

(ii) for continuing the inquiries and investigations pending before the Central Vigilance Commission by the Lokpal.

34. The Provisions of this Act and the rules and regulations made thereunder shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force.

Overriding effect of the Act.

35. The Lokpal shall have power to make its own regulations for the smooth functioning of the institution and to effectively implement various provisions of this Act.

Power to make regulations.

36. (1) The Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act:

Power to make Rules.

Provided that such rules shall be made only in consultation and with the approval of the Lokpal.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for,—

(i) the allowance and pensions payable to and other conditions of service of the Chairperson and members of the Lokpal;

(ii) the powers of a Civil Court which may be exercised by the Lokpal under clause (h) of sub-section (2) of section 10.

(iii) the salary, allowances, recruitment and other conditions of service of the employees of the Lokpal;

(iv) any other matter for which rules have to be made are necessary under this Act.

(3) Any rule made under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a Statement laid before both Houses of the Parliament.

## CHAPTER VIII

## AMENDMENT TO THE PREVENTION OF CORRUPTION ACT, 1988

Amendment  
of Prevention  
of Corruption  
Act.

**37. In the Prevention of Corruption Act, 1988,—**

(a) section 19 shall be omitted.

(b) after section 16 the following section shall be inserted namely:—

“16A. The Special Judge on conviction of an accused shall also qualify the loss caused to the Government and apportion that amount to various convicts from whom this money shall be recovered as arrears of land revenue.”

(c) in section 7, for the words “six months but which may extend to five years” the words “five years which may extend to life imprisonment” shall be substituted.

(d) in section 8, for the words “six months but which may extend to five years” the words “five years which may extend to life imprisonment” shall be substituted.

(e) in section 9, for the words “six months but which may extend to five years” the words “five years which may extend to life imprisonment” shall be substituted.

(f) in section 10, for the words “six months but which may extend to five years” the words “five years which may extend to life imprisonment” shall be substituted.

(g) in section 11, for the words “six months but which may extend to five years” the words “five years which may extend to life imprisonment” shall be substituted.

(h) in section 12, for the words “six months but which may extend to five years” the words “five years which may extend to life imprisonment” shall be substituted.

(i) in section 13, sub-section (2) for the words “one year but which may extend to seven years” the words “five years which may extend to life imprisonment” shall be substituted.

(j) in section 14, for the words “two years but which may extend to seven years” the words “five years which may extend to life imprisonment” shall be substituted.

(k) in section 15, for the words “three years” the words “life imprisonment” may be substituted.



## STATEMENT OF OBJECTS AND REASONS

The idea to bring in an institution like Lokpal to look into allegations of corruption, etc., is borrowed from the office of the Ombudsman which was set up in Scandinavian countries in Sixties. After thorough examination, consultations and discussions, the Government of India entrusted this subject for making appropriate recommendations with regard to setting up of the Lokpal to the first Administrative Reforms Commission (ARC) in 1966. After examining the proposal threadbare, the first ARC recommended the constitution of a two-tier machinery the Lokpal at the Centre, and the Lokayukta at the State level. The Government of India considered the recommendation favourably and, for the first time, the Lokpal Bill was introduced in the Fourth Lok Sabha in 1968 and was passed the next year. But, unfortunately, the Bill lapsed due to dissolution of the Lok Sabha. Then, the Bill was introduced again in 1971, 1977, 1985, 1989, 1996, 1998 and 2001. Every time the Bill was introduced, but due to one reason or the other, it could not become an Act.

India is a democratic country and to uphold the values of democracy, or any other system of governance for that matter, a clean public life, the standards and character of political parties have to be built on grounds of moral conscience. Corruption in public life has become rampant in the country and with the recent scams like 2G spectrum, allocation of S-band spectrum, Adarsh Housing Society, Commonwealth Games, 2010 delay in unearthing black money, etc., it becomes all the more necessary and important to immediately put in place the institution of Lokpal. Apart from corruption by people who are in public life, corruption in executive has also shot up tremendously. So, the proposed Bill justifies its enactment in every respect.

There is no doubt that some of the States have appointed the Lokayuktas to look into corruption cases against people who are in the public life. But, not all the States have enacted the Lokayuktas. So if the proposed Bill is passed, it would pave the way for enactment of the Lokayuktas in States where it was not introduced.

The proposed Bill aims to cover the Prime Minister, Ministers, Members of Parliament, Judges of the Supreme Court and High Courts, Government Servants, etc.

The Bill also aims to protect the whistleblower who faces threat of professional harm, including but not limited to illegitimate transfers, denial of promotions, denial of appropriate perks, departmental proceedings, discrimination or physical harm or is actually subjected to such harm.

The Bill seeks to achieve above objectives.

Hence, this Bill.

DR. M.V. MYSURA REDDY

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill empowers the Government for establishment of the Institution of the Lokpal. Clause 5 deals with the salary and allowances of the Chairperson and members of the Lokpal and creation of the Lokpal Fund. Clause 23 deals with the officers and employees of the Lokpal and their salary and allowances, etc. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However, at this stage, it is not possible to quantify the exact amount of recurring and non-recurring expenditure to be involved for putting in place the institution of the Lokpal.

---

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 29 and 35 of the Bill empowers the Lokpal to delegate powers and assign functions to officials working in the Lokpal and to make its own regulations. Clause 36 gives powers to the Central Government to make rules for carrying out the purposes of the Bill. These rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

## XIX

## Bill No. XI of 2011

*A Bill further to amend the Armed Forces (Special Powers) Act, 1958 and the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Armed Forces (Special Powers) Act, 2011.

Short title,  
and com-  
mencement.

(2) It shall come into force at once.

2. For section 6 of the Armed Forces (Special Powers) Act, 1958, the following section shall be substituted, namely:—

Substitution of  
new section  
for section 6.

"6. No prosecution, suit or other legal proceedings shall be instituted against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act where the Central Government provides reasons in writing and the competent court upholds the legal validity of these reasons."

3. For section 7 of the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, the following section shall be substituted, namely:—

Substitution of  
new section  
for section 7.

"7. No prosecution, suit or other legal proceedings shall be instituted against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act where the Central Government provides reasons in writing and the competent court upholds the legal validity of these reasons."

## STATEMENT OF OBJECTS AND REASONS

The Armed Forces Special Powers Act (AFSPA) was enacted in the year 1958. It comes into operation when the Central Government declares a particular part of the Northeastern States a "disturbed area." Within that area, an officer of the armed forces has the power to fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances. In 1990, the same law was extended to the State of Jammu and Kashmir by a separate enactment.

Over the years AFSPA has been in operation, the Army has resorted to firing a number of times and killed many people. So long as the persons killed have been armed insurgents or terrorists, there have been no complaints against the provisions of the Act. However, when innocent persons—especially unarmed civilians—are killed, the Act came under severe criticism. The protests in Manipur in 2004 in view of the custodial deaths was a gruesome incident of such nature. In Kashmir, sentiments against the Armed Forces Act got inflamed because of fake encounter incidents like Pathribal and Machhil.

Section 6 of the Armed Forces Special Powers Act, 1958 and Section 7 in Armed Forces Special Powers (Jammu and Kashmir) Act, 1990 says "no prosecution suits or other legal proceedings shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act." This requirement *confers de facto* impunity on all personnel of Armed Forces violating the Act. The Central Bureau of Investigation had indicted army officers for the murder of innocent civilians at Pathribal in 2000 but their trial could not take place because the Central Government refused to give sanction for prosecution. So much so, under the said provision the Government even do not have to give any reasons for denying the permission for prosecution. The logic behind this simple section, as in many other Indian laws, is to protect public servants from frivolous or vexatious law suits. The Apex Court of the country has often declared that the object of such protection is not to set an official above the common law. If he commits an offence not connected with his official duty, he has no such protection. A Government which has faith in the actions of its officers and the fairness of its judicial system should not shy away from allowing the courts to step in when doubts arise. And yet, in case after case, legal proceedings could not take place against erring officials for want of permission.

It is, therefore, long over that this provision should be amended by providing that while denying the permission for prosecution, the Central Government must give reasons in writing and the competent court upholds the legal validity of these reasons. Such a provision would prevent good officers from being prosecuted for killings which result from acts of good faith while allowing the bad apples to be prosecuted for their crimes.

Hence, this Bill.

MAHENDRA MOHAN

## XX

## Bill No. XV of 2011

*A Bill to provide for the right to shelter to the persons living below poverty line or falling under low income group by providing a dwelling unit to each and every such family in the country and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Shelter Act, 2011.
- (2) It shall extend to the whole of India.
- (3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commence-  
ment.

2. In this Act, unless the content otherwise requires,—

Definitions.

- (a) “family” means a citizen, his spouse and dependent children;
- (b) “fund” means the House Building Fund established under section 7;
- (c) “persons living below poverty line” means those persons who are declared by the Central Government to be living below poverty line;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "shelter" means a dwelling unit comprising at least one living room, one bed room, one kitchen and one toilet.

Central Government to provide a dwelling unit to families living below poverty line.

3. (1) The Central Government shall, within a period of five years from the commencement of this Act, provide free of cost, one all weather shelter to each family living below poverty line in the country:

Provided that while providing the shelter the Central Government shall take into account the number of members in the family.

(2) For the purpose of sub-section (1), the Central Government shall in consultation with the concerned State Government, cause to be notified a list of all families living below poverty line in each State and Union Territory in such manner as may be prescribed.

(3) The priority of allotting the shelter in a State or Union Territory shall be determined by draw of lot to be conducted in such manners as may be prescribed.

Central Government to provide a dwelling unit at fifty per cent of the cost.

4. (1) The Central Government shall, within a period of seven years from the commencement of this Act, provide a shelter at 50 per cent of the cost to each family, having an annual income of less than rupees five lakh:

Provided that while providing the shelter, the Central Government shall take into account the number of members in the family.

(2) For the purpose of sub-section (1), the Central Government shall in consultation with the State Government, cause to be notified a list of all families having an annual income less than rupees five lakh in each State and Union Territory in such manner as may be prescribed.

(3) The priority of allotting the shelter in a State or Union territory under this section shall be determined by the draw of lot to be conducted in such manner as may be prescribed.

Central Government to maintain the dwelling unit.

5. (1) The Central Government shall, after every four years, undertake the maintenance of the dwelling unit given under section 3 to the families living below poverty line and charge such nominal amount for the purpose as may be prescribed.

(2) The Central Government shall, after every four years, undertake the maintenance of the dwelling unit given under section 4 to families whose annual income is less than rupees five lakh and charge fifty per cent of the maintenance cost.

Succession of dwelling unit.

6. The Central Government shall ensure that on the death of the head of a family living below poverty line or earning less than rupees five lakh annually the title of the dwelling unit shall pass on to the wife.

House Building Fund below poverty line.

7. (1) The Central Government shall, by notification in the Official Gazette, establish a fund to be known as the House Building Fund for the purposes of this Act.

(2) There shall be paid into the fund,—

(a) amounts received from the Central and the State Government as grant-in-aids;

(b) donations received from various sources;

(c) such other sums of money as may be prescribed.

(3) The Central and the State Governments shall contribute in the fund in such ratio as may be prescribed in each case.

Power to remove difficulty.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

9. The provisions of this Act and any rule made thereunder shall be in addition to, and not in derogation of, any other law, for the time being in force, providing shelter to persons living below poverty line and earning less than rupees five lakh per annum.

Act to have effect in addition to other Acts.

10. The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

Roof over one's head is a minimal basic requirement of human being. It gives a feeling of security and lays the foundation of sustainable quality of life. Increasing disparity in income has led to the homelessness in our country. While some people living in palaces or big houses, some don't even have access to a shelter. The housing with its rising cost has become unaffordable. According to an estimate there are around 13 crore homeless people in India. Not only that, each of these homeless have atleast 5-6 members dependent on them that makes a huge section of the country which doesn't have roof over their head. These homeless people face vagaries of weather from chilling cold in winters to heat waves during summer. Many of these homeless people die every year. Most of these homeless persons are poor or live below poverty line.

These homeless people are prone to reduce access to health care, limited access to education, increased risk of suffering from violence and abuse, general discrimination from other people, and most importantly drug abuse. They are wrecked from inside and lost their hopes while living their life in aloofness.

Children of homeless families are often missed out on education and medical treatment and are at the high risk of suffering addiction, abuse and illness. These children often fall into wrong hands and at times become criminals. Therefore, it is in the interest of the society and national building that State should provide shelter.

Ours is a welfare state and it is the duty of the State to ensure that every poor citizen should have roof over his head. It will improve their quality of life, instill a sense of security and lead them to be a healthy and better citizen. Therefore, it is proposed that every family living below poverty line should be provided a dwelling unit free of cost and every family earning less than rupees five lakh should be provided a dwelling unit at 50 per cent of the cost. The proposed Bill also provides for maintenance and succession of the dwelling unit given by Central Government.

Hence, This Bill.

N.K. SINGH

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the families living below poverty line shall be provided a dwelling unit free of cost. Clause 4 provides that families earning below rupees five lakh shall be given a dwelling unit at 50 per cent of the cost. Clause 5 provides that Central Government shall also undertake the maintenance of these dwelling units. Clause 7 provides that Central Government shall also contribute to the House Building Fund. The Bill if enacted, is likely to involve a recurring expenditure of rupees five hundred crore. Non-recurring expenditure of rupees one thousand crore is also likely to be involved.

## MEMORENDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matter will relate to details only, the delegation of legislative powers is of the normal character.



## XXI

## Bill No. XVIII of 2011

*A Bill to provide for the prevention and prohibition of sheer extravagance and unlimited expenditure being incurred on marriages and related ceremonies in various parts of the country and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-Second Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Extravagance and Unlimited Expenditure on Marriages Act, 2011.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir, and applies also to citizens of India domiciled in the territories to which this Act extends who are outsiders in the said territories.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) 'appropriate Government' means in the case of a State, the Government of that State, and in other cases, the Central Government;

(b) 'expenditure on marriage' includes expenses incurred, prior to, during and after the marriage celebrations and related ceremonies on invitation cards, hiring and decoration of pandals, banquet hall, hotel, barat ghar, or such other places, as the case may be, illumination and fireworks, the bridegroom's procession, luncheon or dinner and other refreshments offered to the guests, wedding clothes, ornaments, jewellery, garlands, any kind of gift, in cash or kind, in the form of dowry or any other local custom;

(c) 'prescribed' means prescribed by rules made under this Act;

(d) 'related ceremonies' means any custom or ritual, preceding or succeeding a marriage, such as betrothal, engagement, ring exchange, traditional sangeet programme, mehndi, reception, or any other ritualistic or traditional customs prevailing in the place.

Prohibition of extravagance on marriages and related ceremonies.

3. Notwithstanding any tradition or custom prevailing in any religion, community, tribe or sect, the appropriate Government shall prescribe an upper ceiling for the expenditure that can be incurred in any marriage and related ceremonies of a couple, after taking into consideration the demographic details and circumstances of the place concerned:

Provided that the appropriate Government may, if it considers necessary, make exceptions and relax the limit of total expenditure in individual cases, based on sound reasons and justifications for such relaxation.

Appropriate Government to issuing discretion.

4. Notwithstanding anything contained in any other law for the time being in force, the appropriate Government may issue directions under this Act for achieving the objects of this Act.

Penalty and punishment.

5. Any person, who violates the provisions of this Act, or the rules framed or directions issued thereunder, shall be liable to imprisonment for a term which may extend upto one year or fine which may extend upto rupees one lakh or both.

Saving.

6. Nothing contained in this Act shall affect the validity of any marriage solemnized under the provisions of relevant and applicable Acts or personal laws nor shall this Act be deemed to directly or indirectly affect the validity of any mode of contracting marriage.

Power to make rules.

7. The Central Government, in the case of diplomatic and consular officer and other officers of the Central Government, and the appropriate Government, in all other cases, may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

## STATEMENT OF OBJECTS AND REASONS

Marriages in India have become highly extravagant and lavish affairs, involving lakhs, and even crores, of rupees. Instead of preserving the sanctity of the sacred union of two individuals in life, people are using the marriages and the various ceremonies related to it, as an opportunity to show off their wealth and status, with heavily decorated *Shamianas*, Banquet Halls, sumptuous feasts, special effects, professional dance and music groups, powerful fireworks, etc. It is an open secret that, in most of such pompous weddings, any unspecified amount of money, costly gifts, jewellery and other articles are exchanged as 'Dowry'. Even the invitation cards, which used to be very simple and meaningful, have now become a status symbol, with each party trying to outdo the just concluded marriage ceremony in the area. People have also started the practice of distributing costly gifts and sweets to the Guests attending marriages and receptions and even while giving invitation cards. Indeed, people are now thinking sky-high to add more colour and pomp to marriages, with weddings nowadays taking place in historic places, luxury yachts, ships, planes, etc. At this rate, it will not be far when people start planning to conduct a wedding in the Moon!

The *betrothal* or 'engagement' ceremony has now become a mini marriage itself, with hundreds of guests and lavish spending. The impact of such growing extravagance in marriages is telling upon the lower-middle and lower class people, who try to match the unabashed and pompous rich marriages, often with borrowed money or by selling their hard-earned assets, and later find themselves in severe debt trap. Such uncontrolled expenditure on marriages are, in fact, break the very fabric of our society and institutionalizes the practice of dowry and wasteful expenditure.

The real victims of these extravagant marriages are the poor people, who do not have adequate resources to marry off their daughters and leave their lives to destiny.

It is high time that the Government must take proactive steps to curb the tendency of extravagant expenditure in marriages and related ceremonies, by enacting an appropriate Act, to monitor, regulate and control the unlimited wasteful expenditure being incurred in the name of marriages.

Hence, this Bill.

PROF. P. J. KURIEN

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill gives power to the Central Government and appropriate Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

## XXII

## Bill No. VI of 2011

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2011.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of article 15.

2. In article 15 of the Constitution,—

(i) for sub-clause (a) of clause (2), the following shall be substituted, namely:—

“(a) access to shops, public restaurants, hotels, places of public entertainment and worship; or”.

(ii) after clause (5), the following clause shall be inserted, namely:—

“(6) Nothing in this article shall prevent the State from making any special provisions for prohibition of discriminations against Scheduled Castes,

Scheduled Tribes and Backward Classes of citizens in respect of right to gaining entry to places of public worships, and to perform duties as priests:

Provided that due knowledge, training and practice shall be acquired by the person willing to perform the duties as priests in the *sanctum sanctorum* of places of worship.

## STATEMENT OF OBJECTS AND REASONS

Article 15 of the Constitution provides right to equality in respect of religion, race, caste, sex or place of birth and article 25 provides right to freedom of religion. Despite our Constitution mandates on the principle of equality of treatment in different spheres it is seen that the under-privileged and deprived classes of the society are being discriminated in respect of gaining access to public places of worship in the country and are being still considered as socially and religiously outcaste and untouchable.

It is only fair and just that when a large number of citizens falls under the socially, economically and educationally backwardness and suffer from multiple discrimination, the Constitution should offer protection against any such discrimination. The amendment in article 15 of the Constitution proposed to remove discrimination against all citizens especially the Scheduled Castes, Scheduled Tribes persons in respect of gaining access to places of public worships, and also to perform duties as priests after having acquired the due knowledge, training to perform such duties. The Bill seeks to achieve the above objectives.

Hence this Bill.

TARUN VIJAY

**Bill No. VII of 2011***A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2011.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Eighth Schedule of the Constitution, existing entries 3 to 22 shall be re-numbered as entries 4 to 23 respectively and before entry 4 as so re-numbered, the following entry shall be inserted, namely:—

Amendment  
of Eighth  
Schedule.

"3. Bhoti."

## STATEMENT OF OBJECTS AND REASONS

Boti is spoken in the Himalayan regions of India from Laddakh to Tawang spreading through Jammu and Kashmir, Himachal Pradesh, Uttarakhand, West Bengal, Sikkim and Arunachal Pradesh. The glory and grace of this language is not only confining to the Himalayan regions of India but also in Bhutan, Nepal, Tibet, China, Mongolia and Pakistan. People from different religions, regions cultures and countries are using this language which clearly shows that this language is a symbol of 'Unity in Diversity'. The right of language is a basic cultural right of the people and interlinked with their economy, culture, social system and political right. UNESCO recognizes the concept of language equality among all languages, irrespective of whether they have a script or not.

A nation marked by acute socio-cultural and linguistic diversity must lay down structures and processes that safeguard its unity and integrity. Keeping people out, denying them the basic human rights because of their region and language is unjustifiable and inhumane. As per 1991 census, even Assamese, Sindhi, Nepali, Konkani, Manipuri and Kashmiri speaking population were less than Bhoti speaking population. Bhoti is a language spoken by large number of people in the Himalayan regions and it is blessed and bestowed with wisdom and prosperity. It is a language of saint and poets, language of the hills and valleys, language which unites people by heart and mind, and also a language of peace and compassion. Five States including Jammu and Kashmir, Sikkim, West Bengal, Himachal Pradesh and Arunachal Pradesh have recognised the Bhoti language. The collection of Buddha's teachings, Tripitaka that comprises 108 volumes and Tantras is also available in Bhoti language.

Language is not only a medium of communication, but it also reflects the history, culture, people, relationship, system of governance, ecology, religion, politics, etc. Unfortunately, the Bhoti language has not been included in the Eighth Schedule of the Constitution. Moreover, for eliminating the feelings of alienation and indifference from the minds of people of the Himalayan regions, it is utmost necessary to include this language in the Eighth Schedule for want of oneness and national integration.

Hence, this Bill.

TARUN VIJAY

V.K. AGNIHOTRI,  
*Secretary-General.*